



April 8, 2014

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CALIFORNIA HIGH-SPEED RAIL AUTHORITY

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Attention: Board Members

Regarding: REALISTIC VIEW OF THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY'S 2014 BUSINESS PLAN

Attached is a realistic view of the California High-Speed Train Project (CHSTP). Where it has been and where it appears the Authority is planning to take it.

In 2008, the CHSTP was defined by California Assembly Bill-3034 and the resulting Proposition-1A.

Since then, we the public, law makers and the media have been saturated by the California High-Speed Rail Authority's promises and marketing campaigns to build something different than what the public agreed to fund. The Sacramento Superior Court has ruled that to be the case.

The state has appealed the Superior Court's finding and we are eagerly ready to defend the Court's ruling. The state's lack of compliance with the law is a non-complex matter for the appellate court to review and come to the same finding as the lower court.

The Authority's 2014 Business Plan just re-enforces how far the CHSTP has drifted from what the public authorized by now pursuing critical Green House Gas (GHG) revenues that should be used by law to meet the state's 2020 GHG reduction goals. California Assembly Bill-32 (AB32) is just another funding law that the Authority is prepared to bleed out to justify its continued existence.

It is now 2014, six years after the passage of Proposition-1A. It is time for the Authority to eliminate the constant marketing campaigns which are included throughout the Authority's 2014 Business Plan and the rest of their communications.

We wish the Authority would allow the CHSTP to stand or fall on it's own merit. Build what the public voted on or go back to the voters and ask their permission to build something different. The concept may be uncomfortable but it is simple and fair. Do not take limited AB32 Cap and Trade revenues and use them to increase the state's GHG emissions in the Central Valley.

Sincerely,

FRANK OLIVEIRA
Co-Chair

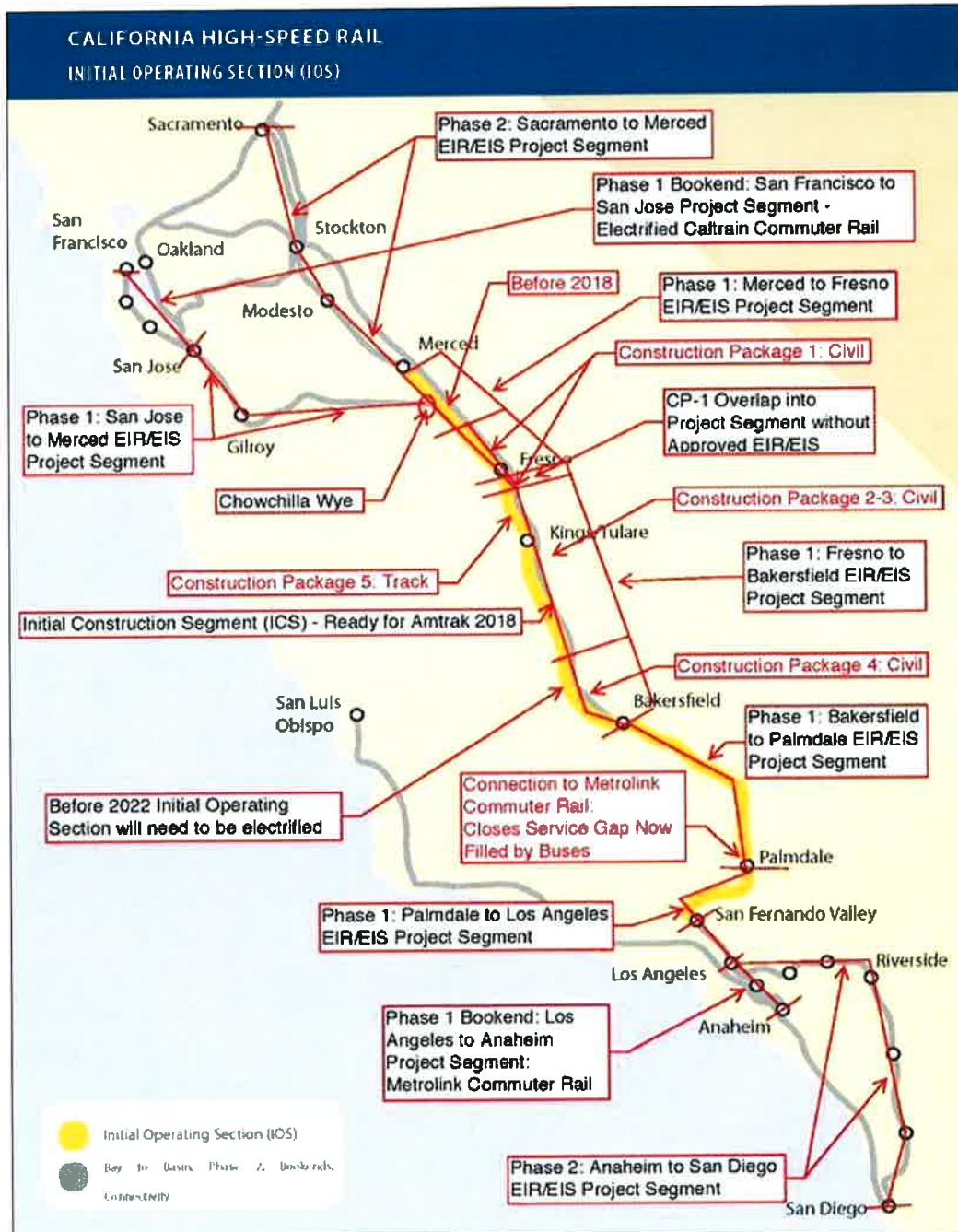
Attachment: REALISTIC VIEW OF THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY'S 2014 BUSINESS PLAN

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TBD

Legacy Issues



Ten Things You Didn't Know About California High-Speed Rail

1. The first \$1 billion construction contract from Madera to Fresno (won in June 2013 by a Tutor Perini joint venture) doesn't include track (or electrification). It is earthwork and grading, drainage, bridges, etc.
2. That first construction contract is 29 miles of construction: 25 miles in the Merced to Fresno project segment with final environmental approval and 4 miles in the Fresno to Bakersfield project segment without final environmental approval. If the Fresno to Bakersfield segment isn't approved by July 12, 2014, the Tutor Perini contract may have to be renegotiated.
3. The first track section won't be laid until after grading, drainage, bridges, etc. from Merced/Madera to just north of Bakersfield is done.
4. The Merced/Madera to Fresno track won't be electrified when open for trains in 2018. It may be used by the Amtrak California San Joaquin line with new faster locomotives.
5. California High-Speed Rail will not run passenger service until 2022, when trains will run between Merced/Madera and Sylmar/San Fernando Valley/Los Angeles on electrified track.
6. When running from San Francisco to San Jose, California High-Speed Rail trains will share rail with the Caltrain commuter train, which is supposed to be electrified by 2019. When eventually running from Los Angeles to Anaheim, California High-Speed Rail trains will share rail with the Metrolink commuter train.
7. The California High-Speed Rail Authority claims the San Francisco to Los Angeles/Anaheim rail system (shared with commuter trains) will cost \$67.6 billion (a Year of Expenditure figure that isn't adjusted to eliminate effects of inflation over many years). It no longer says how much the entire system will cost.
8. When voting on the Proposition 1A bond measure in 2008, Californians were told the entire system would be \$45 billion (including lines to Sacramento and San Diego) and the trains would be capable of running 2 hours and 40 minutes from San Francisco to downtown Los Angeles and 30 minutes from San Francisco to San Jose. Voters were not told about high-speed rail trains sharing track with slower commuter trains.
9. Environmental lawsuits against the California High-Speed Rail Authority often claim inadequate consideration of running the track next to Interstate 5 in the Central Valley or next to Interstate 580 over the Altamont Pass.
10. The state has sold Proposition 1A bonds. Some of the money that voters authorized to borrow through Proposition 1A was designated for rail lines that will be shared with the California high-speed train or that connect to the high-speed train line at stations.

Introduction: "There Are Many Legacy Issues We Deal With."

California High-Speed Rail Authority Chief Executive Officer Jeff Morales responded to a question about system cost at the February 11, 2014 Authority board meeting with the comment "There are many legacy issues we deal with."

Regrettably, the California High-Speed Rail 2014 Business Plan does not deal with these issues.

In this report, we deal with the many legacy issues. And the outlook is grim.

Citizens for California High-Speed Rail Accountability (CCHSRA) is a grassroots organization formed in 2011 to represent agricultural landowners in Kings County, California as the Authority planned route alignments that bisect and meander through prime agricultural farmland. We assert that the California High-Speed Rail Authority ignored and demeaned our concerns during its planning process for the project segment between Fresno and Bakersfield.

In April 2014, CCHSRA is a leading organization for making California High-Speed Rail Authority accountable to Californians and Americans.

We have discovered that the California High-Speed Rail Authority continually tries to evade "legacy issues," in particular inconvenient provisions of Proposition 1A that 52.7% of California voters approved in November 2008. In response, CCHSRA has helped to fill the policy analysis vacuum resulting from inconsistent legislative branch oversight and almost non-existent executive branch oversight.

With this wealth of knowledge, information, and experience, CCHSRA recognizes the legal and practical inadequacy of the California High-Speed Rail Authority 2014 Business Plan. We have produced our own version of a business plan that fulfills the letter and spirit of Proposition 1A and subsequent laws. These laws were meant to give the legislature and the public an accurate perspective on the project. We present this Business Plan to the California State Legislature and the People of California and the United States.

The Worst of the Legacy Issues: Foolhardy Promises to Voters in Proposition 1A (2008)

Maximum nonstop service travel times for each corridor that shall not exceed the following:

- San Francisco-Los Angeles Union Station: two hours, 40 minutes.
- San Francisco-San Jose: 30 minutes.

Achievable operating headway (time between successive trains) shall be five minutes or less.

The authority shall pursue and obtain other private and public funds, including, but not limited to, federal funds, funds from revenue bonds, and local funds, to augment the proceeds of this chapter.

When the Legislative and Judicial Branches of California Government Failed to Serve the People, CCHSRA Demanded Accountability

Our members and representatives have spoken at almost every meeting of the California High-Speed Rail Authority since 2011 and routinely attend state, regional, and local government meetings related to the high-speed rail passenger train and its connectivity plan.

We focus our litigation on compliance with Proposition 1A (2008) and on adequate environmental review of project segments under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA).

We work closely in coalitions with other organizations and public officials critical of the activities of the California High-Speed Rail.

We contract with professional expert consultants in specialized fields for tedious untangling, examination, and translation of Authority documents that obfuscate issues.

Our members and representatives have spoken at almost every meeting of the California High-Speed Rail Authority since 2011 and routinely attend state, regional, and local government meetings related to the high-speed rail passenger train and its connectivity plan.

Our Choice on Organizing the CCHSRA Business Plan

The California High-Speed Rail Authority Still Hasn't Fulfilled These Requirements in Proposition 1A

Prepare a detailed funding plan for that corridor or a usable segment that identifies the sources of all funds to be invested in the corridor, or usable segment, and the anticipated time of receipt of those funds based on expected commitments, authorizations, agreements, allocations, or other means.

Completion of all necessary project level environmental clearances necessary to proceed to construction.

Citizens for California High-Speed Rail Accountability chooses to organize our 2014 Business Plan based on the sequence and categories of questions that Proposition 1A and Senate Bill 1029 ask the California High-Speed Rail Authority to answer.

We believe the California High-Speed Rail Authority 2014 Draft Business Plan essentially intersperses evasive answers with irrelevant arguments in support of its high-speed rail program.

We disagree with the interpretation of the California High-Speed Rail

Authority (cited on pages 9 and 15 of the 2014 Draft Business Plan) that the Business Plan serves as a “roadmap” for its plan to develop the high-speed train system, with its bookends and connectivity segments. State law does not describe the Business Plan as a roadmap.

Instead, the California High-Speed Rail Authority 2014 Business Plan is supposed to be a check and balance established by the legislative branch (and endorsed by a vote of the people) to protect taxpayers and ensure that the California High-Speed Rail Authority – an executive branch agency – is accountable for how public money is spent. The legislative history of Assembly Bill 3034 to put Proposition 1A on the November 5, 2008 ballot emphasizes “oversight” and depicts the Business Plan as a discussion of “sources of funding, patronage, project cost, foreseeable engineering and financial risks, and other related factors.”

Citizens for California High-Speed Rail Accountability (CCHSRA) developed its own California High-Speed Rail Authority 2014 Business Plan to fulfill the letter and the spirit of the law. This report continues our mission to compensate for the practice of the California High-Speed Rail Authority to avoid accountability to the legislature and the people.

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Why Californians and the American People Need the CCHSRA Version of the California High-Speed Rail 2014 Business Plan

How many Californians today could accurately describe the current status of California High-Speed Rail or adequately explain the challenges facing this project? Based on our extensive experience explaining California High-Speed Rail issues to ordinary Californians during the past three years, we guess that only a thousand out of 38 million residents could describe the high-speed rail program in a way similar to this simple yet comprehensive summary.

With such minimal public knowledge of fundamental aspects of the high-speed train program, we believe poll results about support or opposition to the planned High-Speed Rail system reflect emotional or ideological concerns, rather than an informed assessment of the program. In fact, we are struck by how many ordinary Californians can't even remember how they voted on Proposition 1A in November 2008 – it was simply an ornament hung on the Presidential election.

A Concise History of California High-Speed Rail

To provide high-speed rail as another option for intercity travel and to reduce pollution from cars and planes, 52.7% of Californians voted in November 2008 to let the state borrow about \$10 billion by selling bonds. The state would start building a modern \$45 billion high-speed rail similar to what is in Japan, China, and Europe. The system would connect San Francisco, Los Angeles, San Diego, and Sacramento, as well as other cities in between such as Fresno and Anaheim.

Some bond money would help local and regional rail systems connect to high-speed rail.

The United States government then provided a few billion dollars, some through the 2009 stimulus package that President Obama signed into law.

When the cost turned out to be \$98 billion, the state changed it to a \$68 billion plan to connect San Francisco and Los Angeles many years from now, using commuter rail lines at both ends. Construction might start soon for a small stretch north of Fresno where hardly anyone lives.

In November 2013, a judge stopped the state from selling the bonds because

People in the Central Valley are complaining about the rail line going through their farms and buildings. People who live in the San Francisco Bay Area want it to be silent and invisible. But Governor Brown still likes it, so it continues. For years, we've heard construction is supposed to start soon.

Government Checks and Balances Aren't Working to Ensure Accountability

In the legislative branch, representatives of the People in the California State Legislature put Proposition 1A on the November 2008 ballot and do not seem inclined to put another proposition on the November 2014 ballot to amend or repeal Proposition 1A. Direct democracy has been futile: a proposed statewide ballot initiative in 2011 to repeal Proposition 1A failed to obtain enough petition signatures to qualify for the ballot, and the outlook is uncertain for the collection of signatures on petitions for a new proposed statewide ballot initiative.

The executive branch in its various divisions has cooperated with the California High-Speed Rail Authority and has done virtually nothing to hinder the program. Particularly disturbing was how the California High-Speed Passenger Train Finance Committee approved bond sales in 2013 without adequate background or deliberation concerning the legality of those sales.

While the judicial branch has been diligent in its oversight, issues argued in the courts about California High-Speed Rail are too arcane for most people. For example, how many Californians know that one of the two court decisions that blocked the state from selling Proposition 1A bonds resulted from an obscure tactic called a “bond validation” lawsuit? It was filed by the California High-Speed Rail Authority against any and all interested parties. Yes, you were sued.

We recognize the reasoning of some California High-Speed Rail supporters who believe the appropriate role of the public effectively ended when 52.7% of state voters exercised their democratic power to approve Proposition 1A in 2008. According to this line of thought, an exceptionally ambitious project such as California High-Speed Rail can only succeed if the experts are able to proceed through trial-and-error, without meddling and interference from the government. Government audits and reports to the legislature merely distract and provide committed opponents with authoritative sources to use selectively for public relations purposes.

We don't agree with this perspective. In this constitutional republic, checks and balances are in place so that agencies such as the California High-Speed Rail Authority are fully accountable to

Examples of California High-Speed Rail Authority Failures to Inform the Public about Its Internal Administrative Actions

Request to the Surface Transportation Board for a waiver so construction could begin on the Fresno to Bakersfield segment without complete environmental review.

Request to the Federal Railroad Administration for a waiver from Buy America laws for assembly of two prototype trainsets.

Execution with the State Building and Construction Trades Council of California of a Project Labor Agreement (Community Benefit Agreement) for Construction Package 1.

Internal planning in 2012 for a Supplemental or Subsequent EIR/EIS on the Merced to Fresno project segment for the Chowchilla Wye after the Authority decided publicly in 2011 to include it in the San Jose to Merced project segment.

Internal planning in 2012 for a Supplemental or Subsequent EIR/EIS on the Merced to Fresno project segment for the Chowchilla Wye after the Authority decided publicly in 2011 to include it in the San Jose to Merced project segment.

the People. This agency has the authority to spend and borrow staggering amounts of money that future generations will need to pay back, with interest. It needs robust oversight from the People.

The legislature, the courts, the press, and ordinary citizens such as those in Citizens for California High-Speed Rail Accountability (CCHSRA) have identified numerous ways in which the Authority circumvents the law and uses internal administrative decisions to evade public scrutiny. Its response to requests for public records is sluggish and lackluster. Its staff reports and mandated reports to the legislature are deceptive and incomplete. Only one Authority board member of the nine consistently identifies ambiguities in staff reports and asks for more details.

Now the California High-Speed Rail Authority has produced a Draft 2014 Business Plan that is incomprehensible to a reasonably educated Californian. It does not fulfill the intent of the California State Legislature to provide requested information that would allow the legislature to make an informed, accurate assessment of the program status. Like everything the California High-Speed Rail Authority produces for external review, the 2014 Draft Business Plan is a public relations product.

A reader of the 2014 Draft Business Plan gets the impression that California High-Speed Rail Authority officials are feverishly traveling here and there (by train?) for meetings with potential private investors in the High-Speed Rail System. Not stated: there are no private investors to date, there aren't any imminent private investors, and there probably won't be any committed private investors until the California High-Speed Rail Authority has spent significant taxpayer funding on construction.

As another example, the Draft Business Plan repeatedly emphasizes how California High-Speed Rail Authority will "create" jobs during construction and operation, although the law does not require such references. While it's understandable that the California High-Speed Rail Authority would highlight job creation, the Business Plan lacks balance in that it neglects to determine how much government funding will be spent per created job or the estimated long-term costs of permanent jobs (cited as train operators, maintenance yard workers, and stations managers).

Will jobs for operations, maintenance, and security fall under the authority of a private company, or will these jobs be filled by public employees? Under the authority of the federal Railway Labor Act, workers in these jobs will presumably have union representation through Master Labor Agreements, either negotiated with the California High-Speed Rail Authority or with the private operator. Will these agreements be as generous as those negotiated between employee unions and the Bay Area Rapid Transit (BART) District?

Seeing a need for an honest Business Plan that ordinary people can read and understand, Citizens for California High-Speed Rail Accountability (CCHSRA) produced and now distributes our own version of the California High-Speed Rail 2014 Business Plan. We expect our Business Plan to be a valuable tool for legislators, the press, and ordinary citizens as they consider the future of California High-Speed Rail.

1. Preparation, Publication, Adoption, Submission of Business Plan

Improper Public Notice and Public Hearing Procedure for the 2014 Draft Business Plan

The California High-Speed Rail Authority apparently considers a press release posted on its website as adequate public notice for a public hearing. And it apparently considers the fifth method for public comment listed on the February 7, 2014 press release – “Provide public comment at the Authority’s Board of Directors Meeting on February 11, March 11 and April 10” – to fulfill its legal obligation for “at least one public hearing on the plan.” We don’t agree. We believe this method violates the intent of the state legislature, if not the law.

“To ensure that the public has an opportunity to respond, the Authority is providing five methods for submitting comments on this draft plan.”

1. Online comment form through the Draft 2014 Business Plan website at:
http://www.hsr.ca.gov/About/Business_Plans/Draft_2014_Business_Plan.html

2. By email at 2014businessplancomments@hsr.ca.gov

3. By U.S. mail to the Authority:

California High-Speed Rail Authority
Attn: 2014 Business Plan
770 L Street, Suite 800, Sacramento, CA 95814

4. Voice mail comment at [916-384-9516](tel:916-384-9516)

5. Provide public comment at the Authority’s Board of Directors Meeting on February 11, March 11 and April 10.

We informed the Authority board in an April 2, 2014 letter about the flawed and probably illegal administrative process for development of the California High-Speed Rail Authority 2014 Draft Business Plan. To avoid a legal challenge, the California High-Speed Rail Authority needs to comply with California Public Utilities Code Section 185033(b)(2). It needs to provide adequate public notice of a legitimate public hearing as a stand-alone meeting agenda item for the public to comment before the board on the Authority’s 2014 Draft Business Plan. The public hearing needs to be acknowledged in subsequently approved minutes of the meeting. The public needs a clear idea of public comments and how the Authority considered these comments and incorporated into the Final 2014 Business Plan. The public needs a clear idea of how the Authority considered and incorporated content of the sole legislative committee hearing.

Did the Authority Hold a Legitimate Public Hearing on the Plan?

The Authority did not provide the public with a notice indicating a “public hearing on the plan.” We do not consider its February 7, 2014 press release to be a legitimate public hearing notice, which we would expect to be posted sometime between 72 hours and – reasonably at the earliest – ten days before the hearing. That notice should include, at a minimum, the date, time, and place of the hearing, the identity of the hearing body, an explanation of the matter to be considered, and an invitation for the public to address the body about the matter. Based on a comment of the Authority CEO during the February 11, 2014, meeting, the Authority considers the release of the Draft 2014 Business Plan on February 7 as what “starts the statutorily required 60-day public comment period.” But there is also a public hearing required in California Public Utilities Code Section 185033(b)(2).

The Authority did not include anything on its February 11, 2014 and March 11, 2014 board meeting agendas indicating a public hearing on the 2014 Draft Business Plan.

The Authority has not provided the public with evidence in its board meeting minutes that a public hearing was held on the 2014 Draft Business Plan. As seen in the approved minutes of the February 11, 2014 Authority board meeting, meeting minutes typically report public comments with this standard statement: “An opportunity was made for public comment. Speakers commented on a variety of topics.” As a result, meeting minutes do not indicate the Authority held a “public hearing on the plan.”

Oral comments comprising the “public hearing” have been minimal. Only five people have spoken during public comment about the 2014 Draft Business Plan, according to transcripts of the February 11, 2014 and March 11, 2014 board meetings posted on the Authority web site. Five speakers commented on the plan at the February 11 meeting, and one of those five speakers was also the sole commenter on the plan at the March 11 board meeting. Those five speakers regularly address the Authority during public comment on a variety of issues. This is rather paltry public comment on the business plan for the most expensive public works project in American history – a highly controversial project with national and international significance. The Authority board needs to consider whether this scant oral testimony reflects deficiencies in the notice for a “public hearing on the plan.”

The Authority board is scheduled on the April 10 meeting agenda for “Approval of the Final 2014 Business Plan” for submission to the four committees of the California State Legislature cited in law. Comments made during public comment at this meeting obviously will not be part of the categorized summary provided to the Authority board and the public.

The deficiency of public notice and lack of a formal public hearing is especially disturbing because the California State Legislature has not vigorously exercised the provision in California Public Utilities Code Section 185033 that encourages the four committees to hold hearings on the draft and require the Authority to take into consideration the content of those hearings before publishing the final business plan.

Only one informational hearing has been held regarding the 2014 Draft Business Plan in the California State Legislature during the 60-day comment period. On March 27, 2014, the chairman of the Senate Transportation and Housing Committee held an “Informational Hearing on World Class Passenger Rail System in California: Evaluating High Speed Rail’s Potential for Success.” This hearing included a panel of experts discussing the 2014 Draft Business Plan.

Hearing	Date	Documents
Senate Transportation and Housing Committee: Informational Hearing: World Class Passenger Rail System in California: Evaluating High Speed Rail’s Potential for Success	March 27, 2014	Agenda: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/Agenda.pdf Background Report: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/BackgroundPaper3-27-14_Final_amended.pdf Legislative Analyst’s Report: http://www.lao.ca.gov/handouts/transportation/2014/Funding-HSRA-032714.pdf Video of Hearing: http://calchannel.granicus.com/MediaPlayer.php?view_id=7&clip_id=1967

The chairman was the only legislator to attend the hearing. It’s uncertain if the Authority will follow its legal mandate to take hearing testimony into consideration, as representatives of the California High-Speed Rail Authority were seen leaving the committee room before the conclusion of the hearing.

A subcommittee of the Assembly Budget Committee held a hearing on April 2, 2014 regarding transportation spending. It included eight “issues” regarding California High-Speed Rail, and one of those issues was the 2014 Draft Business Plan.

Hearing	Date	Documents
Assembly Budget Committee - Subcommittee No. 3 - Resources And Transportation	April 2, 2014	<p>Agenda and Staff Report: http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/Sub%203-%20April%202%20Agenda.pdf</p> <p>Audio Recording: http://assembly.ca.gov/listen/447-audio</p>

Little of substance was said about the 2014 Draft Business Plan in the staff report or during the committee hearing. During public comment after discussion of eight issues related to California High-Speed Rail, one person specifically criticized aspects of it.

Meanwhile, the Assembly Committee on Transportation and the Senate Committee on Budget and Fiscal Review have not held any hearings on the 2014 Draft Business Plan. It seems that earlier business plans were evaluated much more thoroughly:

Hearing	Date	Documents
Senate Transportation and Housing Committee Informational Hearing : Review of the High Speed Rail Authority's Business Plan	October 23, 2008	<p>Agenda: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/10-23-08Agenda.doc</p> <p>Background Report: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/10-23-08BackgroundPaper.doc</p>
Assembly Transportation Committee Informational Hearing - High-Speed Rail Authority 2009 Business Plan	January 11, 2010	<p>Agenda: http://atrn.assembly.ca.gov/sites/atrn.assembly.ca.gov/files/hearings/011110Agenda.pdf</p> <p>Background Report: http://atrn.assembly.ca.gov/sites/atrn.assembly.ca.gov/files/hearings/011110background.pdf</p>

Hearing	Date	Documents
Joint Legislative Informational Hearing of the Senate Transportation and Housing Committee and Senate Budget and Fiscal Review Sub-Committee No. 2 on Resources, Environmental Protection, Energy and Transportation: California High-Speed Rail Authority's 2009 Business Plan	January 19, 2010	http://www.cc-hsr.org/assets/pdf/Senate-Overview-1-10.pdf (not legislative link)
Budget Subcommittee No. 3 on Resources and Transportation - High Speed Rail Authority Business Plan	November 15, 2011 in Palo Alto	Agenda: http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/hearings/Nov%2015%20High%20Speed%20Rail%20Oversight%20Hearing%20Agenda.pdf
Assembly Transportation Committee Oversight Hearing - High-Speed Rail Authority: Draft Business Plan and Funding Plan	November 29, 2011	Agenda: http://atrn.assembly.ca.gov/sites/atrn.assembly.ca.gov/files/hearings/11-29-11%20High-Speed%20Rail%202012%20Business%20Plan%20hearing%20Agenda.pdf Background Report: http://atrn.assembly.ca.gov/sites/atrn.assembly.ca.gov/files/hearings/11-29-11%20High-Speed%20Rail%202012%20Draft%20Business%20Plan%20Background.pdf
Joint Informational Hearing of the Senate Transportation and Housing Committee and Select Committee on High-Speed Rail: Review of the Draft High-Speed Rail Authority's Business Plan	December 5, 2011	Agenda: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/12-5-11FinalAgenda.pdf Background Report: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/12-5-11BackgroundPaper.pdf

Hearing	Date	Documents
Assembly Transportation Committee Informational Hearing - High-Speed Rail Authority: Revised 2012 Business Plan	April 30, 2012	<p>Agenda: http://atrn.assembly.ca.gov/sites/atrn.assembly.ca.gov/files/hearings/April%2030%20agenda.pdf</p> <p>Background Report: http://atrn.assembly.ca.gov/sites/atrn.assembly.ca.gov/files/hearings/HSR%20April%2030%20background.pdf</p>
Senate Transportation and Housing Committee and Senate Select Committee on High-Speed Rail Senate Budget and Fiscal Review, Subcommittee No. 2 on Resources, Environmental Protection, Energy and Transportation: Joint Informational Hearing on the California High-Speed Rail Project : High-Speed Rail Authority Revised 2012 Business Plan	May 15, 2012	<p>Agenda: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/5-15-12%20Agenda.pdf</p> <p>Background Report: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/High-Speed%20Rail%20Authority,%20Revised%202012%20Business%20Plan,%20Final%20background%20report.pdf</p>
Assembly Transportation Committee Oversight Hearing - California High Speed Rail Authority: High-Speed Rail Project Status Update	February 25, 2013	<p>Agenda: http://atrn.assembly.ca.gov/sites/atrn.assembly.ca.gov/files/hearings/2.25.13%20Agenda%20doc.pdf</p> <p>Background Report: http://atrn.assembly.ca.gov/sites/atrn.assembly.ca.gov/files/hearings/HSR%20Hearing%20Back</p>

2. Description of Type of Service the Authority is Developing for the Statewide System

Wading Through the Terminology of California High-Speed Rail

In its written reports and at board meetings, the California High-Speed Rail Authority frequently uses jargon, acronyms, and strange anachronistic railroad terminology. One example is the controversial “Chowchilla Wye.” A wye is a triangular track arrangement where three rail lines meet. Near the City of Chowchilla (just north of the Hwy 99 and Hwy 152 intersection) is where lines for the Bay Area, Sacramento, and Southern California are supposed to meet.

Here are some key terms used by the California High-Speed Rail Authority without any explanation to ordinary people:

1. **High Speed Train (HST) or High Speed Train System (HSTS)** – state law gives the California High-Speed Rail Authority exclusive authority over high-speed intercity rail travel, and in the 1990s it chose to pursue construction and operation of an electric-powered steel-rail-on-steel-track passenger train capable of reaching a speed of 220 mph.

California Streets and Highways Code Section 2704.01 (implemented by Proposition 1A) defines “High-speed train” as a passenger train capable of sustained revenue operating speeds of at least 200 miles per hour where conditions permit those speeds and “High-speed train system” as a system with high-speed trains that includes, but is not limited to, right-of-way, track, power system, rolling stock, stations, and associated facilities. State law allows a maximum of 24 stations on the system.

2. **California High-Speed Train Program (CHSTP)** – as described in the “Grant/Cooperative Agreement” between the Federal Railroad Administration and the California High-Speed Rail Authority, this is the implementation of “a new high-speed rail system, grade-separated from road vehicle traffic and operated almost exclusively on separate, dedicated tracks with a top design speed of up to 250 mph and an operating speed of up to 220 mph. The 800-mile, statewide program will provide reliable, high-speed electrified train service between the Bay Area, the Central Valley, Sacramento, and Southern California...Phase 1, when complete, would be designed to provide 2-hour and 40-minute nonstop service – competitive with air travel – between San Francisco and Los Angeles, compared with over 6 hours of travel time by automobile.” Or as the “Argument in Favor of Proposition 1A” foolishly declared in the California Secretary of State’s Official Voter Information Guide for the November 5, 2008 election, “Travel from Los Angeles to San Francisco in about 2½ hours for about \$50 a person.”
3. **Section, Segment, Project and Program, Plan, System** – the California High-Speed Rail Authority has an irritating practice of using these terms interchangeably, creating confusion. To try to achieve consistency, this Business Plan uses the term “Project Section” to indicate the nine specific sections for which California High-Speed Rail Authority will adopt an individual project Environmental Impact Report/Environmental Impact Statement.

4. **Phase 1** – high-speed travel from San Francisco Transbay Terminal to Union Station in Los Angeles and then to Anaheim without changing seats. Here's the definition of "Phase 1" of California High-Speed Rail in state law, as approved by voters in Proposition 1A and now implemented as California Streets and Highway Code Section 2704(b)(2):

As adopted by the authority in May 2007, Phase 1 of the high-speed train project is the corridor of the high-speed train system between San Francisco Transbay Terminal and Los Angeles Union Station and Anaheim.

The first sentence of Proposition 1A, now implemented as California Streets and Highway Code Section 2704(a), states the following:

It is the intent of the Legislature by enacting this chapter and of the people of California by approving the bond measure pursuant to this chapter to initiate the construction of a high-speed train system that connects the San Francisco Transbay Terminal to Los Angeles Union Station and Anaheim...

5. **Phase 1 Blended Plan** – 520 miles from San Francisco to Los Angeles/Anaheim, supposedly to be operational in 2028. Caltrain rails will be shared from San Francisco to San Jose and Metrolink rails will be shared from Union Station in Los Angeles to Anaheim.
6. **Bay to Basin** – 410 mile operating section with dedicated high-speed rail infrastructure from San Jose through Merced to the San Fernando Valley, supposedly to be operational in 2026. This also includes shared electrified/upgraded Caltrain rail.
7. **Phase 2** – extensions of high-speed travel south to San Diego and north to Sacramento.
8. **Initial Operating Segment or Section (IOS)** – 300 miles from Merced to Sylmar/San Fernando Valley/Los Angeles Basin (or Los Angeles), supposedly to be operational in 2022. California High-Speed Rail Authority staff believes 20 trainsets will be needed when revenue service starts on the IOS.
9. **First Construction Section or First Construction Segment (FCS)** – 130 miles from Avenue 17 in Madera southward to Allen Rd. outside of Bakersfield in Kern County, or perhaps from Merced to Bakersfield.

Do not confuse the First Construction Segment (FCS) with the Initial Operating Section (IOS), which will run from Merced/Madera to Sylmar/San Fernando Valley/Los Angeles.

It's likely the first construction section from Merced/Madera to Bakersfield will operate as part of the Amtrak California San Joaquin line with diesel locomotives from 2018 to 2022, before the high-speed rail train begins travel on the Initial Operating Section (IOS).

10. **Construction Package 1 (CP-1)** –the design-build construction contract that the California High-Speed Rail Authority awarded to Tutor Perini/Zachry/Parsons, a Joint Venture, in June

2013. It is 29 miles of civil work (grading, drainage, bridge construction, utility relocations etc.) between Madera and Fresno. This does not include track or electrification.

11. **Construction Packages 2-3 (CP-2 and CP-3)** – the design-build construction contract to be awarded for the 60-mile portion of the First Construction Segment between East American Avenue in Fresno to approximately one mile north of the Tulare/Kern county line in Tulare County. CP#2 is from East American Avenue in Fresno south to Lansing Avenue near Corcoran, and CP#3 is from Lansing Avenue in Corcoran south to Perkins Avenue/Elmo Highway near Allensworth. This does not include track or electrification.

Staff informed the California High-Speed Rail Authority board at its September 10, 2013 meeting that it is consolidating CP-2 and CP-3 into one contract. At its March 11, 2014 meeting, the board approved a generalized “term-sheet” for development of this contract. Five design-build entities have prequalified to bid on it.

12. **Construction Package 4 (CP-4)** – the design-build construction contract to be awarded for the portion of the First Construction Segment from Perkins Avenue/Elmo Highway in Allensworth near the Tulare/Kern county line south toward Bakersfield, with the actual length dependent on available funds. Right now it is planned to end north of downtown Bakersfield. Construction Package 4 will be civil work, without track or electrification. The California High-Speed Rail Authority has not yet asked companies to prequalify for this contract.
13. **Construction Package 5 (CP-5)** – the contract to lay track for the First Construction Segment from Merced/Madera to Bakersfield, perhaps starting in 2016. When this is completed in 2018, diesel trains will be able to travel along this track.
14. **Dedicated HSR Infrastructure** – new rail constructed by the California High-Speed Rail Authority for its own use, as opposed to rail shared with Caltrain or Metrolink commuter rails.
15. **Blended System** – using electrified and/or upgraded commuter rails at the northern and southern ends of Phase 1. California High-Speed Rail will share tracks with Caltrain from San Francisco to San Jose and with Metrolink from Los Angeles to Anaheim.
16. **Connectivity** – the concept of linking intercity, commuter, and urban rail systems to the California High-Speed Rail system. Proposition 1A allows the state to borrow \$950 million to help these systems connect to high-speed rail. Of that \$950 million, 20% (\$190 million) funds improvements to the three intercity rail corridors (San Joaquin, Pacific Surfliner, Capital Corridor) and 80% (\$760 million) goes to commuter rail, light rail, heavy rail, and (ahem) cable car.
17. **Bookends** – The segments of high-speed rail that will be shared with Caltrain and Metrolink. Senate Bill 1029, signed into law by Governor Jerry Brown in 2012, provides \$1.1 billion in funding for these segments.

18. **Tier 1 Programmatic EIR/EIS** – a joint Environmental Impact Report and Environmental Impact Statement developed and approved under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act that analyzes the general broad program for the California High-Speed Rail system. The California High-Speed Rail Authority Tier 1 program review divided the system into nine sections for project review.
19. **Tier 2 Project EIR/EIS** – a joint Environmental Impact Report and Environmental Impact Statement developed and approved under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act that analyzes one of the nine segments identified in the Tier 1 Programmatic EIR/EIS as a project.
20. **Peer Review Group** – State law (California Public Utilities Code Section 185035(a)) requires the California High-Speed Rail Authority to establish an independent peer review group for the purpose of reviewing the planning, engineering, financing, and other elements of the authority's plans and issuing an analysis of appropriateness and accuracy of the authority's assumptions and an analysis of the viability of the authority's financing plan, including the funding plan for each corridor. This group of respected, recognized experts has taken its responsibility seriously and has sometimes sharply criticized the California High-Speed Rail Authority.
21. **BNSF** (Burlington Northern Santa Fe) and...
22. **UPRR** (Union Pacific Railroad) – two major freight rail companies that own track throughout California. Cooperation between the California High-Speed Rail Authority and these railroad companies is essential for success in building the system, but obviously passenger rail and freight rail can have competing interests.
23. **Northern California Unified Service** – a plan to incorporate the first construction segment of the Initial Operating Segment into the Amtrak California San Joaquin intercity line, which in turn connects to Caltrain and ACE (Altamont Commuter Express). Caltrans, Amtrak, the San Joaquin Regional Rail Commission, BNSF Railway, and Union Pacific are involved in this plan.
24. **Year of Expenditure (YOE)** – the California High-Speed Rail Authority is strongly motivated to inform public officials and the news media that its cost estimates are usually based on “Year of Expenditure” dollars. Because inflation is taken into account between now and the Year of Expenditure, those numbers appear higher than what we would experience for prices now. In fact, the 2014 Business Plan has a slight drop in the Phase 1 cost compared to the 2012 Business Plan because estimates of the future inflation rate are slightly lower in 2014 than in 2012.
25. **American Recovery and Reinvestment Act of 2009 (ARRA)** – the “stimulus package” that President Obama signed into law in February 2009. It provided federal funding for the California High-Speed Rail Train System, but that funding also imposed conditions that have complicated the plan.

Purpose of California High-Speed Rail in State Law

The People of California (and the United States) cannot be blamed for losing perspective on the California High-Speed Rail project. A background paper for a March 27, 2014 Senate Transportation and Housing Committee informational hearing succinctly described the fundamental problem today:

From its legislative conception in 1982, to the passage of Proposition 1A in 2008 in which voters approved a nearly \$10 billion bond for construction of an initial segment, to the Draft 2014 Business Plan under consideration today, basic elements of the high-speed rail plan have grown, evolved, and changed. Although the core concept of California's high-speed rail has steadfastly remained an ultra-efficient rail line connecting the Bay Area, Central Valley, and Southern California, the exact route, planned construction phasing, and interconnectivity with existing passenger rail systems have undergone substantial changes over three decades of project planning.

No wonder some people say that the main purpose of High-Speed Rail today is to create jobs on behalf of Fresno politicians, construction corporate interests, and union leaders. No one knows where the train is going or when. This is a communications failure of the California High-Speed Rail Authority that should have been rectified in its 2014 Business Plan.

Any description of the California High-Speed Rail system must start with the assumptions in state law about the need for the system. These are outlined in the findings of the 1996 California High-Speed Rail Act (Public Utilities Code Sections 185000-185511). Here's a summary:

- California built an extensive network of freeways and airports, but this is not enough to meet the mobility needs of the current population or the needs of a future population whose size and travel demands are growing at a rapid rate. Building more highways and airports to fulfill current and future transportation needs is costly, and it would result in more pollution.
- In contrast, intercity rail service, when coordinated with urban transit and airports, is an efficient, practical, and less polluting transportation mode. Advances in rail technology allow intercity rail systems in Europe and Japan to attain speeds of up to 200 miles per hour and compete effectively with air travel for trips in the 200 to 500-mile range. In addition, building a large network of high-speed rail systems using existing skilled workers and manufacturing facilities will generate jobs and grow the economy.
- Therefore, development of a high-speed rail system is a necessary and viable alternative to automobile and air travel in the state. Upon confirmation of the need and costs by detailed studies, the private sector, together with the state, can build and operate new high-speed intercity rail systems utilizing private and public financing. In order for the state to have a comprehensive network of high-speed intercity rail systems by the year 2020, it must begin preparation of a high-speed intercity rail plan similar to California's former freeway plan and designate an entity with stable and predictable funding sources to implement the plan.

Route Alignment

Regrettably, the California High-Speed Rail Authority website does not post the historical 1994-1996 documents of the California Intercity High-Speed Rail Commission, the predecessor to the California High-Speed Rail Authority. The public would benefit from seeing the intellectual origins of the California High-Speed Train System. Were mistakes made in the mid-1990s that led to the legacy issues of 2014?

In December 1996, the California Intercity High-Speed Rail Commission produced its final report, the “High-Speed Rail Summary Report and Action Plan.” It reported completing a three-phase evaluation of three possible routes for the rail:

- Coastal
- I-5 Corridor
- Central Valley (SR-99) Corridor

Based on criteria of maximizing ridership, minimizing costs and avoiding potential environmental constraints, the California Intercity High-Speed Rail Commission chose the SR-99 Corridor, including Bakersfield and the Antelope Valley, as the best for high-speed rail service. “The I-5 Corridor was found to have the shortest distance, lowest capital costs, fastest Los Angeles to San Francisco Bay Area travel times and highest ridership forecasts. But, it was also found to have the lowest attractiveness for serving intermediate markets since it does not traverse many developed areas.” The SR-99 Corridor “had substantially fewer impacts on wetlands and endangered the threatened species, fewer socioeconomic and environmental impacts, and lower estimated mitigation costs. The SR-99 corridor was estimated to be slightly more costly to build due to its longer length and the increased cost of construction in developed areas...”

Type of High-Speed Intercity Transportation

The 1996 High-Speed Rail Summary Report and Action Plan considered three types of intercity passenger transportation technologies:

- High Speed – steel-wheel-on-rail, can use existing rail lines with some upgrades, maximum speed 125-150 mph. The Amtrak Metroliner from New York City to Washington, D.C. was the only high-speed service available in the United States in 1996.

Such speeds will soon be feasible on Caltrans (Amtrak California) intercity rail lines. Siemens is manufacturing six Charger locomotives for Caltrans that operate efficiently at speeds up to 125 mph. They could travel at that speed as the San Joaquin line on completed parts of the First Construction Section between Merced/Madera and Bakersfield.

- Very High-Speed – steel-wheel-on-rail, straight rail alignments completely grade-separated and electrified, maximum speed 180-220 mph. Japan and France were using very-high-speed rail systems in 1996. Today China, Spain, Japan, and France operate

substantial very-high-speed systems, with several other European and Asian countries operating lines, constructing lines, or planning to construct lines. In 2014, the United Kingdom and Australia are engaged in debates over proposed very-high-speed rail systems with arguments similar to those in California. The planned UK system is called High Speed 2 (HS2).

- Maglev – electromagnetic force levitates and propels trains along a fixed guideway at speeds of 200 to 310 mph. An advantage of this system is the lack of mechanical friction between train wheels and metal tracks, which allows the train to run faster and eliminates expensive maintenance. In 1996, there were no Maglev systems in revenue service. Today, China and Japan operate Maglev lines, South Korea is building one, and Germany had one but demolished it in 2011.

Other types of proposed high-speed intercity transportation rely on pneumatic tubes to move capsules. The first subway system in New York City, which never advanced beyond a rail between two stations operating in the early 1870s, was a pneumatic propulsion system. The Hyperloop proposed by industrialist Elon Musk is another example. A staff report for an April 2, 2014 hearing of the Assembly Budget Committee - Subcommittee No. 3 - Resources and Transportation was dismissive of claims for significant cost savings with the Hyperlink:

In August 2013, Elon Musk, the CEO of Tesla Motors released a position paper that suggested that the State should build a "Hyperloop" System in lieu of a High Speed Rail system. This document compared the costs of the two systems and assumed that it would only cost \$1 billion to obtain the necessary land for the system. Within days of release, the Musk paper was refuted by transportation experts because, in fact land acquisition and improvement represents the most significant project cost.

In the case of High Speed Rail, there is no viable existing right-of-way infrastructure to use to connect the major population centers of Northern and Southern California by rail. Thus, the bulk of the High Speed Rail projects costs and construction efforts are focused on building this fundamental linkage. In fact, if the State currently owned a suitable right of way infrastructure, the total costs for the High Speed Rail track, stations, and trains would only be \$16.3 billion.

It is important to remember that once the State secures the Right of Way, it will retain ownership of this asset forever. In addition to serving as a route to the High Speed Rail, it may be possible to use this right of way for other uses, such as communication lines or power transmission. Ultimately, if Tesla Motors and Space X are able to master the Hyperloop commercially, this Right of Way would be the natural location for this future mode of transportation.

Nevertheless, excitement about the potential of the Hyperloop highlights the reality that serious review of route alignments and technologies for California High-Speed Rail was done 20 years ago. Are the criteria used in 1994-1996 still relevant today?

We recommend that the California High-Speed Rail Authority post its early archives, and the complete archives of its predecessor California Intercity High-Speed Rail Commission, on its web site. The web site does not include complete versions of the Intercity High-Speed Rail Commission reports, and it is even missing older board meeting minutes (for example, April 21 and September 28-29 meeting minutes from 1999). The public might even benefit from posted documents related to the high-speed rail system proposed and advanced by Governor Brown in 1982, as public comment to the California High-Speed Rail Authority board has claimed significant problems with that plan.

Do NOT Consider California High-Speed Rail as One Very-Fast Train Line

Californians can be excused for being confused and angry in October 2013 when Caltrans announced it had allocated \$140 million from Proposition 1A to the Bay Area Rapid Transit (BART) District to buy 46 new rail cars. BART isn't high-speed rail, and the transportation agency had just experienced a high-profile strike that highlighted its exceptionally generous management and employee salaries and benefits. In addition, the chairman of the California High-Speed Rail Authority is a former member of the BART board, thus creating the false public perception that the Authority was diverting Proposition 1A high-speed rail funding to BART.

It looked bad. Few people realize that California High-Speed Rail is less than AND more than a dedicated high-speed rail line between San Francisco and Los Angeles (and ultimately, points beyond). That's why our alternative 2014 Business Plan is subtitled *The Citizens for California High-Speed Rail Accountability 2014 Business Plan for the California High-Speed Passenger Train System, Including Direct Connections with Existing and Planned Intercity and Commuter Rail Lines, Urban Rail Systems, and Bus Networks Using Common Station and Terminal Facilities.*

When 52.7% of California voters approved Proposition 1A on November 5, 2012, they specifically authorized the State of California to borrow \$9 billion through bond sales to fund pre-construction activities and construction of a high-speed passenger train system. But the proposition authorized a total of \$9.95 billion. The other \$950 million was for "connectivity" projects – "capital improvements to intercity and commuter rail lines and urban rail systems that provide direct connectivity to the high-speed train system and its facilities."

In the context of connectivity, CaHSR is part of a larger scheme ("Statewide Rail Modernization") with high-speed rail as its "spine," "core," or "backbone" to allow people to use public transportation (rail and buses) to travel throughout the state without using cars, thus helping the state to reduce greenhouse gas emissions as required under Assembly Bill 32 (the Global Warming Solutions Act of 2006) and Senate Bill 375 (2008). Cynics and skeptics might assert the following:

- The \$950 million for connectivity was part of a political deal to win support for the bond measure from state legislators in districts with existing commuter and urban rail systems.
- Connectivity was a scheme to claim eligibility for federal funding.
- The glamorous high-speed rail program is simply a front for funding improvement projects on routine rail transit systems.

Here are current examples of “connectivity” plans and projects:

Shared Track

1. Amtrak California (Amtrak in conjunction with the California Department of Transportation, or Caltrans) operates the **San Joaquin** (Bakersfield to Oakland and to Sacramento) intercity rail transit line. Right now the San Joaquin routes use track under contract to freight railroad companies BNSF (Burlington Northern Santa Fe) and UPRR (Union Pacific Railroad). The 130-mile Merced to Bakersfield Initial Construction Segment of California High-Speed Rail (which will not be electrified when track is usable in 2018) will probably share its new track with the San Joaquin Corridor train by using connections to the BNSF Railway line at its northern end (Avenue 17 in Merced) and the southern end (the northern outskirts of Bakersfield). California High-Speed Rail wants to get the Amtrak California San Joaquin service onto the Merced to Fresno Initial Construction Segment as soon as possible after construction is scheduled to be finished in 2017.
2. Right now there is no rail service through the Tehachapi Mountains and/or the San Gabriel Mountains between Southern California and Bakersfield. Currently rail passengers must use Amtrak Thruway buses to travel between Bakersfield and Los Angeles County suburbs. Once the high-speed rail track is laid between Bakersfield and Palmdale, Amtrak passengers will probably be able to stay on the train for that section of track and then transfer at the Palmdale station to the Antelope Valley **Metrolink** commuter rail, which goes to Los Angeles.

After the California High-Speed Rail Authority finishes its project segment between Palmdale and Sylmar/San Fernando Valley/Los Angeles and the high-speed train begins running in 2022 on the Initial Operating Segment, rail travelers will be able to travel from Merced to the Los Angeles Basin without changing seats.

Blended Track (Bookends)

3. The Southern California Regional Rail Authority operates the **Metrolink** commuter rail system connecting cities in the counties of Los Angeles, Ventura, Orange, San Bernardino, and Riverside, with the far southern terminus at the City of Oceanside in San Diego County. The Los Angeles to Anaheim project segment of California High-Speed Rail will share track with the already-electrified Orange County Line of Metrolink.
4. The Peninsula Corridor Joint Powers Board operates the **Caltrain** commuter rail line between San Francisco and San Jose. By 2020, Caltrain will have installed an electric rail system to allow Caltrain to phase out its diesel trains and allow the California High-Speed Rail Authority to blend the high-speed train system with the Caltrain system.

Connectivity (High-Speed Train System Connections to Other Public Transit Systems)

There are several intercity, commuter, and urban rail systems that will eventually connect directly with the California High-Speed Rail system as Phase 1 is completed and then as Phase 2 is completed. These include the following systems:

Interstate Rail

Amtrak, operated by the National Railroad Passenger Corporation, for four interstate lines not run in conjunction with Caltrans: Coast Starlight (Los Angeles to Seattle), California Zephyr (Emeryville to Chicago), Southwest Chief (Los Angeles to Chicago), and Sunset Limited (Los Angeles to New Orleans).

Intercity Rail

Amtrak Pacific Surfliner (San Luis Obispo to San Diego through Los Angeles).

Capitol Corridor, operated by the Capitol Corridor Joint Powers Authority in conjunction with Amtrak and Caltrans with administration by BART.

LOSSAN (Los Angeles-San Diego-San Luis Obispo Rail Corridor), a coordination of Amtrak California Pacific Surfliner, Metrolink, and COASTER and operated by the LOSSAN Rail Corridor Agency with administration by the Orange County Transportation Authority.

Commuter Rail

RT, operated by the Sacramento Regional Transit District

ACE (Altamont Corridor Express), operated by the San Joaquin Regional Rail Commission

Los Angeles County Metro Rail, operated by the Los Angeles County Metropolitan Transportation Authority

COASTER, operated by the North County Transit District in San Diego County

Urban Rail

Muni Metro Light Rail (Muni) and **Muni Cable Cars**, operated by the San Francisco Municipal Transportation Agency.

San Diego Trolley, operated by the San Diego Metropolitan Transit System.

San Jose Light Rail, operated by the Santa Clara Valley Transportation Authority.

Planned Intercity Rail

SMART, an intercity rail line now under construction for operation by the Sonoma-Marin Area Rail Transit District, with ferry connection to San Francisco.

Coachella Valley Intercity Rail Corridor – a proposed intercity rail line between Indio and Los

Angeles that would include Metrolink and Los Angeles County Metro Rail rail lines.

Rail-Integrated Intercity Buses

Amtrak Thruway Buses – exclusive for Amtrak train passengers, these “luxury motorcoaches” connect Amtrak rail routes with North Coast, Shasta Cascades, Gold Country, High Sierra, Central Coast, Deserts, and parts of Southern California.

Urban Buses

Numerous urban bus services will connect to the CaHSR system. One example cited in the 2014 Draft Business Plan is **Samtrans**, operated by the San Mateo County Transit District.

3. Proposed Chronology for Construction of Statewide System

It seems that the chronology for construction of the California High-Speed Train System (and the Authority’s depiction of ongoing construction activities for the California High-Speed Train System) is substantially driven by deadlines, reporting requirements, and other conditions wrapped with the federal grant funds. Federal money comes with strings attached. Perhaps these deadlines and other conditions should be regarded as another set of “legacy costs” referenced by CEO Jeff Morales.

The 2014 Draft Business Plan says very little about the California High-Speed Rail Authority relationship with the FRA. However, the U.S. Department of Transportation Office of the Inspector General has criticized FRA’s High Speed Intercity Passenger Rail Program, and on March 5, 2014, the Inspector General initiated an audit of the FRA’s High Speed Intercity Passenger Rail Grant Amendment and Oversight Processes, as requested by the Chairman of the U.S. House of Representatives Committee on Transportation and Infrastructure’s Subcommittee on Railroads, Pipelines, and Hazardous Material.

The California High-Speed Rail Authority was required to begin construction before December 31, 2012 to be eligible for high speed rail grants from the American Recovery and Reinvestment Act of 2009 (ARRA). In 2011, the US Department of Transportation acknowledged it had “no administrative authority to change this deadline.”

In the spring of 2012, the U.S. Department of Transportation began pressuring the State of California to appropriate money for the CaHSRT System or face rescission of its federal grants for the project. In meetings in Sacramento, U.S. Transportation Secretary Ray LaHood refused to accept a postponement of appropriations decisions until August 2012.

On July 6, 2012, the state Senate, by one vote, approved Senate Bill 1029, a "trailer bill" that was an adjunct to the 2012-13 state budget. Governor Jerry Brown then signed Senate Bill 1029 into law. It appropriated or triggered the spending of a grand total of **\$8,021,612,000** (\$8 billion).

Before outlining the chronology for construction of the dedicated high-speed rail portion of the system, blended and connectivity projects need to be addressed.

Blended and Connectivity Projects

SB 1029 designated **\$1,919,333,000** (\$1.9 billion) of the **\$8,021,612,000** (\$8 billion) for state, regional, and local agencies other than the California High-Speed Rail Authority to help fund fifteen Connectivity and Bookend Projects.

- **\$800 million** for local assistance and capital outlay **connectivity projects** throughout the state. These are capital improvement projects of intercity and commuter rail lines and urban rail systems that provide direct connectivity to the high-speed train system and its facilities.

To Caltrans – Connectivity – Local Assistance	\$713,333,000
To Caltrans – Connectivity – Capital Outlay	\$106,000,000
Total for Connectivity Projects	\$819,333,000

- **\$1.1 billion** for capital outlay bookend projects for track that the high-speed train system will share with commuter rails.

Electrify and Upgrade Caltrain	\$600,000,000
Upgrade Rail Systems in Southern California. (Local transit agencies choose projects.)	\$500,000,000
Total for Bookend Projects	\$1,100,000,000

Much of this Proposition 1A is matched with federal grants and other state and local funding sources. This is called “leveraging” funding. A sense of urgency to obtain these federal matching funds imposed great pressure on uncertain state legislators to vote for SB 1029.

Fifteen (15) Connectivity and Bookend Projects

Amount	Agency Recipient	Project Description
Intercity Rail		
\$41,000,000	Caltrans (Amtrak California) San Joaquin Corridor (Amtrak), Merced to Le Grand	Construction of 8.4 miles of double track between Le Grande and west Planada to increase service and reduce scheduling conflicts with freight trains.
\$47,000,000	Caltrans (Amtrak California) Capitol Corridor, Oakland to San Jose Track Improvement	Help construct a series of track improvements to permit an increase in service frequency between Oakland and San Jose from the current 7 weekday round trips to 11 weekday round trips. With federal and other funds, total spending is \$248 million.
\$16,000,000	Caltrans (Amtrak California) Capitol Corridor, Roseville to Sacramento Track Improvement	A series of improvements at Amtrak's Capitol Corridor station in Roseville designed to increase service frequency, reduce freight train conflicts and accommodate freight train growth projects, consists of relocation of the Roseville station and addition of a third track. With federal and other funds, total spending is \$28 million.
Commuter Rail		
\$10,900,000	San Joaquin Regional Rail Commission (Alameda Corridor Express) Altamont Corridor Express (ACE) Stockton Passenger Track Extension (Gap Closure)	Approved by the California Transportation Commission (CTC) in October 2012 to extend an existing Alameda Corridor Express (ACE) platform so Amtrak passengers have direct access to it. The project will also provide additional track work for a new ACE maintenance facility. With matching funds, total spending is \$25 million.
\$30,000,000	Sacramento Regional Transit District (RT) Sacramento Intermodal Facility Improvements	Relocation of existing light rail track, passenger platform and associated systems to connect to a new Sacramento Intermodal Facility and future high-speed rail terminal. With federal and other funds, total spending is \$60 million.

Amount	Agency Recipient	Project Description
\$145,000,000	Bay Area Rapid Transit District (BART) Millbrae Station Track Improvement & Car Purchase	Lengthen track at the Millbrae Station to provide a cross platform connection to high-speed rail to buy new BART cars. A multi-agency effort is underway to upgrade the Millbrae Station, which is a regionally important multimodal station serving BART, Caltrain, and Samtrans systems today and high-speed rail service in the future. This effort also includes advancing transit oriented development on the surrounding station property, and an Access Plan that will identify access improvements and on-site circulation for all modes, as well as opportunities to improve transfers among BART, Caltrain, buses, airport shuttles, and high-speed rail. Funds will also help upgrade technology on the Caltrain Corridor. With federal and other funds (such as a BART contribution of \$38 million), total spending is \$290 million.
\$706,000,000	Peninsula Corridor Joint Powers Board (Caltrain) Electrification	Installation of an electric rail system that phases out diesel trains and blends the Caltrain system with the high-speed rail line. With matching funds, total spending is \$1.456 billion.
\$42,000,000	Peninsula Corridor Joint Powers Board (Caltrain) Advanced Signaling System: Communications Based Overlay Signal System (CBOSS) Positive Train Control (PTC) Project	Design, installation, testing, training and warranty for an intelligent network of signals, sensors, train tracking technology, computers, etc. on the Caltrain Corridor to meet mandated federal guidelines. With funds from BART and the Santa Clara Valley Transportation Authority, total spending is \$231 million. This work began in September 2013.
\$26,000,000	Santa Clara Valley Transportation Authority (Caltrain) Advanced Signaling System: Communications Based Overlay Signal System (CBOSS) Positive Train Control (PTC) Project	Design, installation, testing, training and warranty for an intelligent network of signals, sensors, train tracking technology, computers, etc. on the Caltrain Corridor to meet mandated federal guidelines.

Amount	Agency Recipient	Project Description
\$89,000,000	Southern California Regional Rail Authority (Metrolink) New or Improved Locomotives/Cars	Either repower or purchase 20 to 30 higher horsepower locomotives, and recondition and improve passenger cars. With matching funds, total spending is \$203 million.
\$115,000,000	Los Angeles County Metropolitan Transportation Authority (Metro) Regional Connector Transit Corridor	Help construct a 2-mile light rail connection among Metro Gold, Metro Blue and Metro Exposition light rail transit systems through downtown Los Angeles to provide a one-seat ride from throughout the County to Union Station, where connections can be made to the high-speed rail system. With matching funds, total spending is \$1.4 billion. Environmental review has been completed, a ROD was issued in 2012, and work has begun and will be completed in May 2018
\$7,300,000	North County Transit District (COASTER) Positive Train Control Advanced Signaling System (Positive Train Control)	Adding to a previously appropriated \$10.5 million of Proposition 1A funds to build an advanced communications and signaling system to track the location of trains to avoid collisions. With matching funds, total spending is \$60 million.
Urban Rail		
\$61,000,000	San Francisco Municipal Transportation Agency MUNI – Central Subway	Help construct a 1.7-mile extension of light rail line from 4th & King Streets (downtown San Francisco) to Chinatown. With matching funds, total spending is \$1.6 billion.
\$58,000,000	San Diego Metropolitan Transit System (Trolley) – Blue Line Light Rail Improvements	Rehabilitate grade crossings, track, and switches and ties, add trackwork and signaling, and raise platforms to accommodate low floor vehicles to allow for reduced headway and improved reliability. The last phase of construction is underway and will continue through late 2015. With matching funds, total spending is \$152 million.
Other		

Amount	Agency Recipient	Project Description
\$500,000,000	Southern California Memorandum of Understanding	regional rail projects that improve local networks and facilitate high-speed rail travel to Southern California. Projects will be selected by local transit agencies, in conjunction with the High-Speed Rail Authority, and state funding will be matched by additional investments to make the total investment in these projects \$1 billion.
\$1,894,200,000	Total for Bookends/Connectivity	

California High-Speed Rail Project Segments

Alignment and the Nine Project Sections

First Tier Environmental Impact Reports – Setting a General Idea of the Route

Construction and operation of the California High-Speed Train System has to comply with the California Environmental Quality Act (requiring an Environmental Impact Report) and the National Environmental Policy Act (requiring an Environmental Impact Statement). Before the California High-Speed Rail Authority began detailed preparation for project segments of the high-speed rail system, it produced generalized reports about the entire system and about large parts of the system. In 2005, the CaHSR completed and certified a generalized Programmatic (Tier 1) Final Program Environmental Impact Report/Environmental Impact Statement for the entire proposed California High-Speed Train System. These reports were as follows:

1. 2005 Final Program EIR/EIS for the Proposed California High-Speed Train System (Statewide Program EIR/EIS)
2. 2008 Bay Area to Central Valley High-Speed Train Final Program EIR/EIS (Bay Area to Central Valley Program EIR/EIS)
3. 2010 Revised Final Program EIR for the Bay Area to Central Valley High-Speed Train

Most of the litigation related to the programmatic environmental reviews relates to the Authority's selection of the Pacheco Pass (as opposed to the Altamont Pass) and the resulting alignment of the high-speed train system shared with the Caltrain commuter rail through cities such as Atherton, Menlo Park, and Palo Alto.

For purposes of more localized project Tier 2 environmental review, the 2005 programmatic Tier 1 report divided the California High-Speed Train system into nine project segments between stations to be located along the route:

Project Segment	Length (Miles)
San Francisco-San Jose	50
San Jose-Merced	120
Merced-Fresno	60
Fresno-Bakersfield	115
Bakersfield-Palmdale	85
Palmdale-Los Angeles	60
Los Angeles-Anaheim	30
Phase 1 Total	520
Sacramento to Merced	110
Anaheim to San Diego	167
Phase 2 Total	277
High-Speed Train System Total	797

As required in the Federal Railroad Administration Notice of Funding Availability (NOFA) for ARRA funding for rail projects, these sections must show evidence of demonstrating “Operational Independence/Independent Utility” upon completion. According to Sec. 3.5.2 of the Notice of Funding Availability (NOFA), a rail project has Operational Independence “if, upon being implemented, it will provide tangible and measurable benefits, even if no additional investments in the same service are made.” Examples of these benefits include “operational reliability improvements, travel time reductions, and additional service frequencies resulting in increased ridership.”

The California High-Speed Rail Authority wants each segment to create new or substantially improved High-Speed Rail or intercity passenger rail service, even if no other sections are built. Dividing the program into nine project sections gives the state flexibility in planning and constructing the system. If the high-speed rail system is frozen or abandoned, the tracks that were laid can be used by other railroad agencies. On the other hand, it also provides nine opportunities for opponents of the system to prevent or delay construction.

The planned 2018 completion of the First Construction Segment includes two of those segments:

- Merced to Fresno
- Fresno to Bakersfield

The planned 2022 Initial Operating Segment includes four of those segments:

- Merced to Fresno
- Fresno to Bakersfield
- Bakersfield to Palmdale
- Palmdale to Sylmar/San Fernando Valley/Los Angeles

Bay to Basin adds this segment:

- San Jose to Merced

The project segments that comprise the Bookends create the Blended Plan and complete Phase 1:

- San Francisco to San Jose
- Los Angeles to Anaheim

Phase 2 adds the last two project segments:

- Sacramento to Merced
- Anaheim to San Diego

State law requires the California High-Speed Rail Authority to include in its Business Plan an analysis of two issues for all nine project segments:

1. Chronology for Construction

2. Estimated Capital Costs

State law requires the California High-Speed Rail Authority to include in its Business Plan an analysis of three additional issues for Phase 1 project segments:

1. Expected Patronage, Service Levels, and Operating and Maintenance Costs (at 3 levels)
2. Expected Schedule for Completing Environmental Review
3. Expected Schedule for Initiating and Completing Construction

Below is the information provided by the California High-Speed Rail Authority.

1. Merced to Fresno Project Section

Status	Phase 1, First Construction Section, Initial Operating Segment
Environmental Review Completion	May 2012. All lawsuits settled by April 2013.
Construction Initiation	Imminent. Pre-construction activity is occurring.
Construction Completion	December 2018
Estimated Capital Cost	N/A
Service Level and Operation & Maintenance Costs (Low Patronage)	N/A
Service Level and Operation & Maintenance Costs (Medium Patronage)	N/A
Service Level and Operation & Maintenance Costs (High Patronage)	N/A

Selection

Proposition 1A included the following directive to the California High-Speed Rail Authority:

In selecting corridors or usable segments thereof for construction, the authority shall give priority to those corridors or usable segments thereof that are expected to require the least amount of bond funds as a percentage of total cost of construction. Among other criteria it may use for establishing priorities for initiating construction on corridors or usable segments thereof, the authority shall include the following: (1) projected ridership and revenue, (2) the need to test and certify trains operating at speeds of 220 miles per hour, (3) the utility of those corridors or usable segments thereof for passenger train services other than the high-speed train service that will not result in any unreimbursed operating or maintenance cost to the authority, and (4) the extent to which the corridors include facilities contained therein to enhance the connectivity of the high-speed train network to other modes of transit, including, but not limited to, conventional rail (intercity rail, commuter rail, light rail, or other rail transit), bus, or air transit.

The California High-Speed Rail Authority then applied to the Federal Railroad Administration for \$5.73 billion in grants from the new High-Speed Intercity Passenger Rail (HSIPR) Program to “initiate construction” on four project segments of Phase 1 of the High-Speed Train system:

San Francisco to San Jose, Merced to Fresno, Fresno to Bakersfield, and Los Angeles to Anaheim. (There are the four project segments that do not include mountainous terrain.) On October 28, 2010, the FRA agreed to award grants under a condition that the funding be used for final design and construction on either the Merced to Fresno or Fresno to Bakersfield project segments. At its December 2, 2010 meeting, the California High-Speed Rail Authority board chose a section between Madera and Corcoran, based on these factors:

- impacts on the project schedule
- logical sequencing of the work
- mandated testing of high-speed trains
- maximizing impact of available federal and state funding
- requirements imposed by the Federal Railroad Administration, including “Independent Utility/Operational Independence”

After other states withdrew their applications for high-speed rail funding and thereby freed additional federal funding, the board voted on December 20, 2010 to extend the First Construction Segment to encompass Madera to just north of downtown Bakersfield.

Environmental Review

In August 2011, the California High-Speed Rail Authority released its Draft Environmental Impact Report - Environmental Impact Statement (EIR/EIS) for the Merced to Fresno project segment. The 60-day public comment period closed on October 13, 2011. Here was the project schedule in that report:

Date	Action
August 2011	Public release of Draft EIR/EIS
February 2012	Final EIR/EIS published
March 2012	Notice of Determination Record of Decision
2012 through 2013	Final design/permitting
December 2012	Property acquisition begins
Spring 2013	Construction begins
2019	Operation begins

At its December 13, 2011 meeting, the California High-Speed Rail Authority board selected one of the alternative routes in the Draft EIR/EIS as the “Preferred Alternative.” As required by the federal Clean Water Act, the U.S. Army Corps of Engineers determined on March 23, 2012 and the U.S. Environmental Protection Agency determined on March 26, 2012 that the selected alternative was the least environmentally damaging practicable alternative.

On May 3, 2012, the California High-Speed Rail Authority (CHSRA) board certified the Final Environmental Impact Report/Environmental Impact Statement (Final EIR/EIS) for the Merced to Fresno project section and issued a Record of Decision under the National Environmental Policy Act. At that time, the California High-Speed Rail Authority still anticipated starting construction in late 2012 or early 2013. The board also directed Authority staff to carry forward

all options for the Chowchilla Wye alignment for further study under CEQA and to report back to the board by July 31. Here is the California High-Speed Rail Authority description of the approved alignment in the Final EIR/EIS:

The Merced to Fresno high-speed train section is approximately 65 miles long and will follow a route known as the “Hybrid” alternative. This alignment was identified as the preferred alternative out of three primary alternatives studied in 2011. The “Hybrid” alternative generally parallels the Union Pacific railroad tracks and State Route 99 between Merced and Fresno and is responsive to community and civic feedback. To avoid impacts to downtown Madera, the alignment travels east of Madera and generally parallels the existing Burlington Northern Santa Fe (BNSF) railroad corridor. The board also selected the Downtown Merced Station location, and the Downtown Fresno Station at the Mariposa Street location as part of the statewide High-Speed Train system.

Here was the revised schedule for the Merced to Fresno project section (effectively the Madera to Fresno subsection at this point) in the Final EIR/EIS:

Date	Action
April 2012	Final EIR/EIS published
May 2012	Notice of Determination
June 2012	Record of Decision
2012 through 2013	Final design/permitting
December 2012	Property acquisition begins
Spring 2013	Construction begins
2019	Operation begins (Testing)
2020	Revenue Service
“The schedule for final design, construction, and operation will be refined as the project moves closer to the end of the environmental review and preliminary design phase. The Authority envisions that revenue service would be provided between Merced and Fresno by 2020.”	

The Authority Wins Settlements on All Three Lawsuits, Just in Time

Three sets of parties then filed lawsuits challenging the certification as a violation of the California Environmental Quality Act (CEQA) – that is, “woefully deficient” and “harmful” to farmers and ranchers – and asking for a preliminary injunction from a judge to stop construction until the judge could decide on the adequacy of the Final EIR/EIS.

1. City of Chowchilla
2. Timeless Investments, Inc., Millennium Acquisitions, Inc., Horizon Enterprises and Everspring Alliance, LP
3. County of Madera, the Chowchilla Water District, the Farm Bureaus in Madera and Merced counties, Preserve Our Heritage, and Fagundes Brothers.

Among numerous arguments, all three claimed that the California High-Speed Rail Authority had failed to consider an Interstate 5 alignment.

If a judge granted the injunction and stopped construction, it would presumably freeze federal grant money for construction that was required to be completed by a December 2017 deadline, thus jeopardizing the Merced to Fresno project segment. In addition, the California High-Speed Rail Authority would not be able to negotiate for property in the rail right-of-way because of pending litigation.

Sacramento County Superior Court judge Timothy Frawley consolidated the three lawsuits, and on November 16, 2012, he denied the injunction – a victory for the California High-Speed Rail Authority.

In the end, the California High-Speed Rail Authority was able to settle with all three parties and avoid a possible devastating ruling about CEQA compliance and the alleged neglect of an Interstate 5 alternative.

- City of Chowchilla was settled January 28, 2013
- Timeless Investments, Inc., Millennium Acquisitions, Inc., Horizon Enterprises and Everspring Alliance, LP was settled February 22, 2013
- Madera County, the Chowchilla Water District, and the Farm Bureaus in Madera and Merced counties was settled April 18, 2013

It was a close call for the California High-Speed Rail Authority. A Sacramento County Superior Court hearing had been scheduled for April 19, 2013. The California High-Speed Rail Authority advanced federal environmental review under the National Environmental Policy Act (NEPA) when the Federal Railroad Administration released a Record of Decision on September 29, 2012.

A few months later, an article in July 24, 2013 *Fresno Bee* ([High-Speed Rail Agency Accused of Stalling on Settlement](#)) reported problems in implementing one of the settlement agreements:

The Madera County Farm Bureau and other organizations are accusing the California High-Speed Rail Authority of failing to live up to key terms of a legal settlement.

In a letter sent Tuesday to the rail agency, the Madera farm bureau's attorney, Barry Epstein of Oakland, said the authority is "in default" of an April 17 agreement that settled a lawsuit filed last year by the Madera and Merced county Farm Bureaus, the grassroots landowner group Preserve Our Heritage, the Chowchilla Water District and the Fagundes farming family in Madera and Merced counties. The organizations sued the rail authority over its May 2012 certification of an environmental impact report for the Merced-Fresno portion of the proposed statewide high-speed rail system.

Among the key complaints now: The authority had yet to put up a promised \$5 million to establish an agricultural land mitigation fund. That money is supposed to be used to buy conservation easements on farmland in the region to make up for acreage lost to the high-speed rail route. The notice also says the rail authority still owed almost \$973,000 promised to cover legal fees for the groups suing the agency.

The 2014 Draft Business Plan does not mention this controversy either.

First Construction Package Awarded: What's the Definition of "Construction?"

On June 6, 2013, the California High-Speed Rail Authority board voted 6-0 to award “Construction Package 1” (CP-1) the first construction contract for the First Construction Section, to Tutor Perini/Zachry/Parsons, a Joint Venture. This construction package covers 29 miles from Madera to Fresno – 25 miles within the Merced to Fresno Project Section and five miles within the Fresno to Bakersfield Project Section, which does not have a published Final EIR/EIS at this time.

While the California High-Speed Rail Authority Draft 2014 Business Plan claims on pages 4, 10, and 15 that “construction of the first construction section in the Central Valley” is “underway,” the California High-Speed Rail Authority has not scheduled a formal groundbreaking, although it has done some confirmed “digging” related to advance archeological investigations in the Chinatown neighborhood in the City of Fresno. The draft business plan claims that “the contractor has opened offices in downtown Fresno, is hiring workers, completing design, preparing management plans and schedules, conducting field work and finalizing third-party agreements.” Such activity we consider to be pre-construction – not construction – and we do not see evidence of construction trade workers performing civil work.

Also in June 2013, the federal Surface Transportation Board (STB) determined it has jurisdiction over the California High-Speed Train System because it connects to interstate Amtrak rail lines and thus becomes a matter of interstate commerce. Under this authority, the Surface Transportation Board authorized the Authority to begin construction of the Merced to Fresno project section and exempted the Authority from its full application process for this project section.

A decision regarding the alignment of the Chowchilla Wye (an issue discussed later in this report) was delayed for more research and later consideration. This is the reason why Construction Package 1 encompasses Madera to Fresno instead of Merced to Fresno, and the reason why Merced to Madera may not be included in the First Construction Segment or even the Initial Operating Section.

2. Fresno to Bakersfield Project Section

Status	Phase 1, First Construction Section, Initial Operating Segment
Environmental Review Completion	Waiting for Final EIR/EIS in Spring of 2014
Construction Initiation	Construction Packages 2-3 to be awarded
Construction Completion	December 2018

Estimated Capital Cost	N/A
Service Level and Operation & Maintenance Costs (Low Patronage)	N/A
Service Level and Operation & Maintenance Costs (Medium Patronage)	N/A
Service Level and Operation & Maintenance Costs (High Patronage)	N/A

This would be the second of the nine segments to be built and used for rail service. Construction is supposed to be complete in December 2018.

At this time the California High-Speed Rail Authority has only released a Draft EIR/EIS, although it is preparing a Final EIR/EIS. The Authority stated on page 2 of its November 15, 2013 Project Update Report to the California State Legislature that “[t]he Authority Board of Directors will make a final decision about alignments and station locations after issuance and consideration of the final [environmental] documents in Spring, 2014.”

The Authority extended the comment period on the Fresno to Bakersfield Revised Draft Environmental Impact Report/Supplemental Environmental Impact Statement (EIR/EIS) from the required 45 days to 90 days, allowing more time for public comment and stakeholder involvement. The public comment period concluded on October 19, 2012, which shifted the anticipated date for the Record of Determination (ROD) from January 2013 (as projected in the 2012 Business Plan) to fall 2013. In November 2013, the Board of Directors concurred with a staff-recommended preferred alternative for this section for purposes of preparing a Final EIR/EIS.

The Authority claims it needs to prepare responses to over 7000 comments on the Draft EIR/EIS for the Fresno to Bakersfield project segment. As a result, the date for certifying the Fresno to Bakersfield project segment Final EIR/EIS and issuing a Record of Determination (ROD) is now extended to the spring of 2014. Once the Authority has issued the ROD and the federal Surface Transportation Board has authorized the Authority to begin construction, the Authority can start acquiring right-of-way property and start construction.

Resistance to the rail line going through Kings County farmland will be fierce. For example, an attorney representing Kings County in its environmental concerns sent two letters dated October 3, 2013 and November 6, 2013 to the Authority requesting recirculation of the Fresno-Bakersfield EIR/EIS and supplementation of the programmatic EIR/EIS due to significant changes in design, impacts, and numerous unaddressed issues. It remains to be seen if the California High-Speed Rail Authority is able to settle all of the anticipated environmental lawsuits before a judge gets to consider the looming and perilous issue of whether the California High-Speed Rail Authority properly addressed the Interstate 5 corridor as an alternative alignment.

The Authority has not made its final decisions on alignments and station locations. It is considering two possible routes through farmland in Kings County (West and East), which

managed to stir up opposition from twice as many property owners. The East route will result in the destruction of the region's only cow carcass rendering facility. There may be a station in the City of Hanford in Kings County, although the City of Visalia in Tulare County has shown interest in a station. Tulare County seems somewhat open to considering high-speed rail, while Kings County is a hotbed of political opposition and aggressive litigation against the project. There has been some acknowledgement within the California High-Speed Rail Authority that its early community outreach to Kings County was poorly planned and executed, thus stoking hostility that is difficult for California High-Speed Rail Authority to mitigate.

Once completed, this segment will likely join the Merced-Fresno segment as part of the Amtrak California San Joaquin passenger rail route from Bakersfield north to the San Francisco Bay Area and Sacramento. This plan is revealed in the December 2, 2010 staff report for Agenda Item #3 – Corridor Selection: Initial Construction (Appendix A: Evaluation of The Two Central Valley ARRA Sections to Determine the Optimum Section to Begin Construction):

In practice, this requirement means that the improvements can be used for existing or new intercity rail passenger operations, including Amtrak and other intercity service should no further High-Speed Rail funds be made available. Importantly, such service is clearly specified as being "intercity service" as opposed to enhanced commuter rail service. In both the Central Valley ARRA sections Amtrak's San Joaquin's would offer operational independence by connecting the new infrastructure to the existing BNSF network, on which the San Joaquin service presently operates.

A request for Qualifications was issued for Construction Package 2-3 for the next 60 miles from Fresno south to 1 mile north of the Tulare-Kern County line near Bakersfield. The Authority anticipates awarding that contract in late 2014.

Immediately upon the conclusion of the CP-2 and CP-3 procurement process, the Authority will begin the procurement process for CP-4 and CP-5. CP-4 will complete the civil work associated with the first construction section, and CP-5 will comprise the trackwork.

In a December 20, 2013 letter to the federal Surface Transportation Board asking it to reject the California High-Speed Rail Authority's Petition for Exemption of the Fresno to Bakersfield high-speed rail project section, the Office of the Kings County Counsel addressed the status of environmental review for the Fresno-Bakersfield project section:

The environmental document for the Fresno-Bakersfield segment is incomplete. The Authority has indicated it is in the process of preparing responses to over 7000 comments on the document. A final EIR/EIS has not been issued. Several different timeframes have been provided, the latest is spring, 2014. Additionally, the County's CEQA/NEPA Counsel, Doug Carstens, has written to the Authority requesting recirculation of the Fresno-Bakersfield EIR/EIS and supplementation of the programmatic EIR/EIS due to significant changes in design and impacts and unaddressed geotechnical and other issues as detailed further in the October 3, 2013, and November 6, 2013 letters submitted under separate cover to you and attached here for your convenience.

For the Fresno-to Bakersfield section of the high-speed rail project, President Obama announced September 2012 his decision to expedite permitting of the project as part of his We Can't Wait Initiative. President Obama directed the Federal Railroad Administration to finish its environmental review of the Fresno-to-Bakersfield section by October 2013. We are still waiting.

Issues Specific to Combined Project Segments of First Construction Section: Merced to Fresno to Bakersfield

Barely mentioned or not mentioned at all in the Business Plan are five critical issues that apply to the First Construction Section, comprised of the Merced to Fresno project segment and the Fresno to Bakersfield project segment:

1. Alignment of the Chowchilla Wye
2. Construction Package 1 Overlaps Into Unapproved Fresno to Bakersfield Project Segment
3. Electrification and Traction Power System (to propel the passenger train)
4. Test Track for Prototype Trainsets
5. Heavy Maintenance Facility

Alignment of the Chowchilla Wye

Controversy was fierce over the Chowchilla Wye, a Y-shaped junction in the shape of a triangle connecting the north-south rail line in the Central Valley to the rail line that goes to the San Francisco Bay Area. In July 2011, the California High-Speed Rail Authority removed the Wye area from the Merced to Fresno project segment and reassigned it to the San Jose to Merced project segment. The May 2012 Final EIR/EIS for the Merced to Fresno project segment did not indicate a preferred alignment for the Wye.

But at its January 23, 2013 meeting, the California High-Speed Rail Authority board heard a staff presentation proposing that the Authority expedite plans for environmental review and final determination of the Chowchilla Wye alignment in order to extend the Initial Construction Segment to include the section from Merced to Avenue 17 in Madera, where work would start on Construction Package #1. To achieve this, the California High-Speed Rail Authority would prepare and certify a Subsequent EIR/Supplemental EIS for the Merced to Fresno project section by April 2014. (At that time, site work on Construction Package #1 was scheduled to begin in the summer of 2013 and track work on the Initial Construction Segment between Madera and Bakersfield was supposed to be complete in September 2017.)

At the January 23, 2013 meeting, staff explained it would study the Chowchilla Wye (Central Valley Wye) further by submitting six proposed alternatives to the Army Corps of Engineers and the US Environmental Protection Agency. It would propose a supplemental draft EIR/EIS later in 2013 and a draft EIR/EIS from the San Jose to Merced later in 2015. This would allow the Authority to make earlier decisions about the Wye. The California High-Speed Rail Authority board would certify a Final EIR/EIS for San Jose to Merced (San Jose to Central Valley Wye) project segment in fall 2016.

Still in question is if and when the part of the dedicated high-speed rail track between Merced and Madera will be built and whether or not it will be part of the First Construction Segment. If

2018 approaches without this section under construction as potential test track for prototype trainsets, the proposed locations on this section of track for the Heavy Maintenance Facility have to be eliminated from consideration.

Construction Package 1 Overlaps Unapproved Fresno to Bakersfield Project Segment

The California High-Speed Rail Authority has completed the environmental review of the Merced to Fresno segment. It is in the process of environmental review for the Fresno to Bakersfield segment.

Construction Package 1 has 25 miles in the approved Merced to Fresno segment and 4 miles in the not-approved Fresno to Bakersfield segment. If the California High-Speed Rail Authority can't conclude environmental review of the Fresno to Bakersfield segment by July 12, 2014, the Authority has to renegotiate the contract for Construction Package 1 with Tutor Perini/Zachry/Parsons.

This is why the California High-Speed Rail Authority quietly asked the federal Surface Transportation Board for an environmental exemption, which the board has refused to grant while it extends the time period for comment until February 14, 2014. The September 26, 2013 Petition for Exemption from the California High-Speed Rail Authority to the Surface Transportation Board states the following:

The Authority has entered into a design-build contract to construct a 29-mile segment of the HST System, comprised or approximately 5 miles of track and facilities within the boundaries of the Fresno to Bakersfield HST Section in the vicinity of Fresno and approximately 24 miles of track and facilities covered by the exemption granted in the Merced to Fresno Decision. The Authority's design-build contract requires the Authority to give the contractor separate notices to proceed with construction of the 5-mile and 24-mile segments. The notice to proceed for the 5 miles of track and facilities must be issued by July 12, 2014. If the Authority cannot issue the notice on the 5-mile segment by July 12th, it will be removed from the contract and the Authority will need to re-negotiate the price for the construction of the 24-mile segment and the price and timetable for the 5-mile segment. Since the construction contract does not contain a separate price for the 5-mile and 24-mile segments, this could result in a substantial aggregate increase in the cost of construction of the two segments. There is a possibility that the Board will have a vacancy as of January 1, 2014. Given the Authority's July 12th notice to proceed deadline, the possibility of a Board vacancy is of concern to the Authority. However, the Board has authority to grant conditional approval of construction exemptions. Although the Board does not do so absent compelling circumstances, there would be compelling circumstances in this case because conditional approval would avoid circumstances which could require the Authority to pay a higher price for the construction of the initial segment of the HST System. Accordingly, if a Board vacancy becomes imminent, the Authority respectfully requests that the Board conditionally grant this Petition subject to the completion of the environmental review process, and issue a decision effective by December 31, 2013.

Californians Advocating Responsible Rail Design (CARRD) is harshly critical of what it calls “serious mistakes made by the Authority and its consultants” and “the strange lack of competency in procurement strategy.”

Electrification and Traction Power System (to propel the passenger train)

At some time before the CaHSR passenger train begins operations on the Initial Operating Segment, California High-Speed Rail Authority will need to issue RFQs, RFPs, and award Construction Package contracts for design and construction of the automatic train control, communications, traction power, and overhead contact systems (OCSs), also known as overhead catenary systems (OCSs), that will distribute electric power to rolling stock via a simple two-wire system supported by cantilevers and attached to track-side poles, gantries, and/or headspans.

Construction Package 1 and subsequent Construction Packages for civil work (CP-2, CP-3, CP-4) require the installation of mounting provisions for OCS poles, cable ducts that pass through and under earthworks, and conduits for cables running from one side of the track to the other. In addition, these contracts have and will require provisions for proposed future interlocking control houses and cases, communications shelters, overhead contact systems, section switch locations, traction power substations with access to high voltage sources, switching stations, and paralleling facilities, as well as maintenance turnouts and parking areas for future work.

A conventional wayside signal system may end up being installed to support interim operation of Amtrak California San Joaquin rail service on the First Construction Segment.

Test Track for Prototype Trainsets

A June 24, 2011 memorandum prepared by Parsons Brinckerhoff and a February 28, 2014 letter from California High-Speed Rail Authority to FRA emphasize the importance of having a section of “test track” to use for 12 to 18 months of advanced testing of prototype trainsets under conditions specific to California High-Speed Rail. This testing is also essential to support the commissioning of the core systems and final commissioning of the prototypes, the training of operations & maintenance personnel, and the demonstration of the safety of the HSR system to the public.

While CaHRSA wants to perform initial assembly and testing of prototype trainsets out of the county, eventually it would use a test track – perhaps 44 to 62 miles in length – that is part of the future California High-Speed Rail Authority system. This test track would be directly connected with and located adjacent to a heavy maintenance and storage facility with sufficient equipment to potentially assemble and then fully service the trains while they are being tested. For reasons of timing, design and construction of the test track and heavy maintenance facility would need to occur in coordination with the procurement process for the trainsets.

RFP Issued	January 24, 2014
Request to Federal Railroad Administration for waiver from Buy America law of prototype assembly	February 28, 2014
Proposals Due	May 16, 2014

Oral Presentations	September 8, 2014
Notice of Award	December 2014
Execution of contracts, design of two prototype trainsets, manufacture and foreign assembly of the prototype train sets, delivery to the selected U.S. location at which low to medium speed testing will be performed and completed.	January 2015 - February 2019
Delivery of prototypes to CaHSR heavy maintenance and storage facility that is connected to test track.	March 2019
Training of Operations & Maintenance personnel	March 2020
Commissioning core systems	March 2020
Commissioning of prototype train sets for domestic manufacturing.	July 2020
Begin Initial Operating Segment Revenue Service	2022

The Final EIR/EIS for Merced to Fresno project segment identifies this segment as a potential location to test the prototype trainsets:

The approximately 65-mile-long corridor between Merced and Fresno is an essential part of the statewide HST System. The Merced to Fresno Section is the location where the HST would intersect and connect with the Bay Area and Sacramento branches of the HST System; it would provide a potential location for the heavy maintenance facility (HMF) where the HSTs would be assembled and maintained as well as a test track for the trains...

Public comments about the Draft EIR/EIS note that the Merced to Fresno project segment would not be electrified any time soon and therefore cannot serve as a very high-speed railway test track. Perhaps this explains why the California High-Speed Rail Authority is asking the FRA for a waiver from federal Buy America laws in order to assemble the two planned prototype trainsets abroad. Preliminary testing of the trainsets will also be done in another country.

Heavy Maintenance Facility

One California High-Speed Train System heavy vehicle maintenance and layover facility will be located either on the Merced to Fresno project section or Fresno to Bakersfield project section. Based on a September 10, 2013 staff report to the California High-Speed Rail Authority board, it seems that one company will win one contract to provide and maintain the trainsets and also construct, outfit, and maintain the Heavy Maintenance Facility:

The RFP would initiate a “best value” procurement for the design of trainsets appropriate for both the Authority and Amtrak, the construction of those prototypes, and for construction, delivery, and maintenance of trainsets for the Authority...The RFP will include an option that would include design, manufacture, financing, and maintenance under one contract with compensation to the contractor in the form of “availability payments.” A portion of these payments are expected to come from operating revenues. Using such a structure, periodic payments are made to the contractor in exchange for the availability of a guaranteed quantity of trainsets delivered on a timeline that would support revenue service targets. The availability payment would cover the capital costs of the trainsets, the capital costs of constructing and outfitting the Heavy Maintenance

Facility (HMF), and the associated trainset and facility maintenance costs for the life of the trainset, typically over a period of 30 years.

Before the startup of initial operations, the HMF would support the assembly, testing, commissioning, and acceptance of high-speed rolling stock. During regular operations, the HMF would provide maintenance and repair functions, activation of new rolling stock, and train storage. The HMF concept plan indicates that the site would encompass approximately 150 acres to accommodate shops, tracks, parking, administration, roadways, power substation, and storage areas. The HMF would include tracks that allow trains to enter and leave under their own electric power or under tow. The HMF would also have management, administrative, and employee support facilities. Up to 1,500 employees could work at the HMF during any 24-hour period. The cost of construction for the HMF could range from \$650 million to more than \$1 billion.

In the fall of 2009, the California High-Speed Rail Authority issued a “Request for Expressions of Interest (RFEI)” for locating the Heavy Maintenance Facility. It received 14 proposals.

An August 2, 2010 staff memo to the California High-Speed Rail Authority board reported that staff had eliminated three “non-feasible sites” in the Merced to Fresno project segment (Harris Farms, Harris-Kwan, and Mission Avenue) but would address five other proposed sites in the Merced to Fresno EIR/EIS: Castle Commerce Center, Fagundes, Gordon Shaw, Harris-DeJager, and Kojima Development. The EIR/EIS described these five candidate sites:

The Castle Commerce Center HMF site would result in the highest number of affected street and roadway intersections in comparison to the other HMF alternatives. This HMF is the only one that could expose sensitive receptors—such as schools and homes without air conditioning—to diesel emissions that would exceed air quality standards after implementing measures to reduce them. This HMF alternative would require the acquisition of a homeless shelter in Merced and would result in the division of a mobile home community. Castle Commerce Center would require the acquisition of the entire Joe Stefani Elementary School property (14.5 acres). This HMF site would have the least impact on Important Farmlands. The Castle Commerce Center HMF site would potentially affect two archaeological resources.

The Harris-DeJager HMF site would result in the lowest number of intersection impacts. This site would permanently affect the Eastman Lake-Bear Creek ECA. The Harris-DeJager and Gordon-Shaw HMF sites would have the most Important Farmland conversion of all the HMF sites. The Kojima Development HMF site would permanently affect the Berenda Slough riparian corridor and would affect one potential archaeological resource. The Fagundes and Gordon-Shaw HMF sites would have low impacts compared to the other HMF sites.

All the HMF sites would contain the same facilities to provide maintenance services for the HST System. An HMF at the Harris-DeJager, Fagundes, Gordon-Shaw, or Kojima Development sites would cost an estimated \$660.8 million for full build-out. An HMF at the Castle Commerce Center site would cost about \$1.067 billion because it would require an access track from the Downtown Merced Station.

In a July 8, 2010 presentation to the California High-Speed Rail Authority board, staff reported eliminating three proposed HMF sites from consideration (Schuil & Associates - Angiola, City of Allensworth Development Group - Allensworth, and MUSE LLC - Bakersfield) but five sites were under consideration in the Fresno to Bakersfield Section:

1. The Fresno Works–Fresno HMF site lies within the southern limits of the city of Fresno and county of Fresno next to the BNSF Railway right-of-way between SR 99 and Adams Avenue. Up to 590 acres are available for the facility at this site.
2. The Kings County Economic Development Corporation–Hanford HMF site lies southeast of the city of Hanford, adjacent to and east of SR 43, between Houston and Idaho Avenues. Up to 510 acres are available at the site.
3. The Kern Council of Governments–Wasco HMF site lies directly east of Wasco between SR 46 and Filburn Street. Up to 420 acres are available for the facility at this site.
4. The Kern Council of Governments–Shafter East HMF site lies in the city of Shafter between Burbank Street and 7th Standard Road to the east of the BNSF Railway right-of-way. This site has up to 490 acres available for the facility.
5. The Kern Council of Governments–Shafter West HMF site lies in the city of Shafter between Burbank Street and 7th Standard Road to the west of the BNSF Railway right-of-way. This site has up to 480 acres available for the facility.

In the fall of 2012, the Draft EIR for the Fresno to Bakersfield project segment confirmed that the Authority has determined that one HMF would be located between Merced and Bakersfield.

Central Valley regional and local governments are eager to host the planned Heavy Maintenance Facility because of the potential for 1500 maintenance jobs at the facility and the railroad-related businesses that would presumably locate near the facility.

3. Bakersfield to Palmdale Project Section

Status	Phase 1, Initial Operating Segment Creates First Passenger Rail Connection Between Northern and Southern California
Environmental Review Completion	Fall 2015
Construction Initiation	N/A
Construction Completion	By 2022
Estimated Capital Cost	N/A
Service Level and Operation & Maintenance Costs (Low Patronage)	N/A
Service Level and Operation & Maintenance Costs (Medium Patronage)	N/A

Service Level and Operation & Maintenance Costs (High Patronage)	N/A
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This would be the third of the nine segments to be built and used for rail service.

The California High-Speed Rail Authority claims it can combine remaining Proposition 1A bond funds with annual funding in the state budget from Cap and Trade allowances (claimed by some to be illegal “taxes”) to continue construction beyond the initial Madera to Bakersfield segment and dig tunnels through the Tehachapi Mountains between Bakersfield (in the Central Valley) and Palmdale (in the Antelope Valley, part of the Mojave Desert). If this section is completed, it will create the first dedicated passenger rail connection between Northern and Southern California. Rail travelers will transfer at the Palmdale station between the new Bakersfield to Palmdale section and the Antelope Valley line of the Metrolink commuter rail system.

In addition, Palmdale could be a transfer point between the north-south rail line created by the California High-Speed Train System with a proposed high-speed rail line that would go to Las Vegas via the High Desert Corridor, which would include Victorville and Barstow. The XpressWest high-speed system was part of the most recent incarnation of this vision.

Design and construction will be expensive and difficult because of the Tehachapi Mountains. The California High-Speed Rail Authority will face the challenge of maintaining high speeds for the train while trying to minimize the construction of expensive tunnels and supports. There is a staff proposal before the Assembly Budget Committee Transportation subcommittee to ask the Legislative Analyst’s Office to make recommendations on how the legislature can provide oversight on construction plans and activities on this project segment.

4. Palmdale to Los Angeles Project Section

Status	Phase 1, Initial Operating Segment Completes Initial Operating Segment
Environmental Review Completion	Summer 2015
Construction Initiation	N/A
Construction Completion	By 2022
Estimated Capital Cost	N/A
Service Level and Operation & Maintenance Costs (Low Patronage)	N/A
Service Level and Operation & Maintenance Costs (Medium Patronage)	N/A
Service Level and Operation & Maintenance Costs (High Patronage)	N/A

This would be the fourth of the nine segments to be built and used for rail service. Its completion will supposedly allow the California HST to begin revenue service along an Initial Operating Segment between Merced and Sylmar in the San Fernando Valley (Los Angeles).

It's possible that opposition to the rail line going through the Santa Clarita Valley will be as fierce and vicious as current opposition to the rail line going through Kings County farmland. In particular, landowners and community leaders in the communities of Acton, Agua Dulce and Sand Canyon are organized and watching with trepidation. The California High-Speed Rail Authority has managed to fend off any aggressive actions by suggesting the possibility of costly alternative routes that would require more tunnels but avoid these communities. It has even hinted at being open to one of the great dreams of transportation infrastructure fans: a tunnel from Palmdale to Los Angeles through the San Gabriel Mountains.

By the time it completes construction of the Initial Operating Segment between Merced and the San Fernando Valley, the Authority plans to have contracted with a passenger rail operator to begin HST System operations in 2022. It's unclear at this time how passengers will get to Union Station in downtown Los Angeles from the terminus of the dedicated high-speed rail line, but Metrolink and the Regional Connector Transit Corridor may provide connectivity options.

5. Merced to San Jose Project Section

Status	Phase 1, Bay to Basin
Environmental Review Completion	Fall 2016
Construction Initiation	N/A
Construction Completion	N/A
Estimated Capital Cost	N/A
Service Level and Operation & Maintenance Costs (Low Patronage)	N/A
Service Level and Operation & Maintenance Costs (Medium Patronage)	N/A
Service Level and Operation & Maintenance Costs (High Patronage)	N/A

The California High-Speed Rail Authority is in the process of “identifying and refining alignment options between San Jose and Merced, particularly in the area around the City of Chowchilla where the connection between the east-west and north-south alignment occurs.”

Proposition 1A included language prohibiting the California High-Speed Rail Authority from building any stations between Gilroy and Merced. Environmental groups and anti-growth allies were adamant that voters ensured Los Banos would not have a station.

The San Jose to Merced section is 125 miles long, starting at San Jose Diridon Station through the Gilroy station to the downtown Merced station. California High-Speed Rail Authority staff has studied potential project section alignments, including routes along Highway 101 or the Union Pacific Railroad. There will be facilities for maintenance and storage south of San Jose. Two potential station sites are under consideration in Gilroy, and the City of Gilroy has been proactive in developing its own plan for a station, which was submitted to the California High-Speed Rail Authority in February 2012. Staff has been coordinating with the Department of Water Resources and the US Bureau of Reclamation to minimize impacts and develop mitigation

strategies for crossing the San Luis Reservoir. In accordance with the Authority's Memorandum of Understanding with the US Army Corps of Engineers and the US Environmental Protection Agency, staff will submit a proposed range of alternatives to these agencies for their concurrence.

6. San Francisco to San Jose Project Section

Status	Phase 1, Blended CaHSR and Caltrain commuter rail
Environmental Review Completion	Summer 2017 On February 28, 2014, Caltrain released Draft Environmental Impact Report (DEIR) for Peninsula Corridor Electrification Project. Public comments on DEIR due by April 29, 2014.
Construction Initiation	Electrification could begin in 2014
Construction Completion	By 2019 or 2020
Estimated Capital Cost	N/A
Service Level and Operation & Maintenance Costs (Low Patronage)	N/A
Service Level and Operation & Maintenance Costs (Medium Patronage)	N/A
Service Level and Operation & Maintenance Costs (High Patronage)	N/A

Here is another project segment where fierce and vicious opposition has been erupting for several years against the proposed CaHSTS.

Cities, organizations, and individuals have long been concerned about how the Pacheco Pass alignment could result in expansion of the Caltrain commuter rail mainline from two sets to four sets of tracks, electrification of the line with unsightly above-ground utility infrastructure (something already proposed by the Peninsula Corridor Joint Powers Board), grade separation at all crossings, and noisy trains running on the Peninsula at 100 mph.

In December 2005, the California High-Speed Rail Authority board approved its FPEIR/EIS for the statewide high speed rail system and approved the statewide project. It analyzed many different routes from the Central Valley to the Bay Area, including the Pacheco Pass near Highway 152 and the Altamont Pass near I-580 in the East Bay, but determined not to choose an alignment for access to the San Francisco Bay Area from the Central Valley, putting that decision off for further study. It directed CHSRA staff to prepare a separate programmatic EIR to study the options for a high speed rail connection between the San Francisco Bay Area and the Central Valley portion of the high speed rail system, including a Pacheco Pass alignment and an Altamont Pass alignment.

At its July 9, 2008 meeting, the California High-Speed Rail Authority board approved its Final Program EIR/EIS for Bay Area to Central Valley Portion of the California HST System, which chose the Pacheco Pass alignment over the Altamont Pass alignment.

On August 8, 2008, the cities of Atherton and Menlo Park filed a lawsuit (Case No. 34-2008-80000022) challenging it. They were joined as plaintiffs by the California Rail Foundation, the Transportation Solutions Defense and Education Fund (TRANSDEF), the Planning and Conservation League, and the BayRail Alliance. The City of Palo Alto submitted an amicus brief on May 1, 2009 in support of the plaintiffs.

Approved by voters on November 5, 2008, Proposition 1A included this language: "Nothing in this section shall prejudice the authority's determination and selection of the alignment from the Central Valley to the San Francisco Bay."

On August 26, 2009, Sacramento County Superior Court Judge Michael Kenny ruled that plaintiffs did have some meritorious arguments against the California High-Speed Rail Authority. On November 3, 2009, he ruled in support of the plaintiffs and directed the California High-Speed Rail Authority to rescind its approvals for the project, the findings in support of those approvals, and its certification of the Final Program EIR/EIS.

In response, at its September 2, 2010 meeting, the California High-Speed Rail Authority board approved its Bay Area to Central Valley High-Speed Train Project Final Revised Programmatic Environmental Impact Report (FRPEIR). It once again chose the Pacheco Pass alignment.

On October 4, 2010, the cities of Atherton, Menlo Park, and Palo Alto filed a new lawsuit (Case No. 34-2010-80000679) against the California High-Speed Rail Authority challenging the Bay Area to Central Valley High-Speed Train Project Final Revised Programmatic Environmental Impact Report (FRPEIR). They were joined as plaintiffs with the California Rail Foundation, the Transportation Solutions Defense and Education Fund (TRANSDEF), the Planning and Conservation League; the Community Coalition on High-Speed Rail, the Midpeninsula Residents for Civic Sanity, and an individual. (This case is often referred to as Atherton II.)

On November 10, 2011, Sacramento County Superior Court Judge Michael Kenny issued two decisions invalidating the Bay Area to Central Valley High-Speed Train Project Final Revised Programmatic Environmental Impact Report (FRPEIR).

In response, at its April 19, 2012 meeting, the California High-Speed Rail Authority board approved its Bay Area to Central Valley High-Speed Train Partially Revised Final Program Environmental Impact Report (EIR).

On July 18, 2012, Governor Brown signed into law Senate Bill 1029, which included the following restriction on the San Francisco to San Jose "bookend" project segment for which California HST System will share track with the Caltrain commuter rail system:

Any funds appropriated in this item for projects in the San Francisco to San Jose corridor, consistent with the blended system strategy identified in the April 2012 California High-

Speed Rail Program Revised 2012 Business Plan, shall not be used to expand the blended system to a dedicated four-track system.

On October 15, 2012, the Atherton I and II plaintiffs appealed to the Third District California Court of Appeal regarding some aspects of the November 10, 2011 decision. Oral argument is scheduled for May 20, 2014.

On February 28, 2013, Judge Michael Kenny ruled in support of the California High-Speed Rail Authority in another aspect of *Town of Atherton et al. v. California High-Speed Rail Authority* (Case Nos. 34-2008-80000022 and 34-2010-80000679).

In June 2013, the California High-Speed Rail Authority asked for a postponement of a July 22, 2013 hearing on the Atherton appeal because of a federal Surface Transportation Board decision in April 2013 that it has jurisdiction over the California High-Speed Train System. In response, the court delayed the hearing and ordered both sides to submit briefs on the pre-emption issue.

On August 9, 2013, the California Attorney General submitted a brief to the 3rd District Court of Appeal on behalf of the California High-Speed Rail Authority claiming that the federal Surface Transportation Board decision in April 2013 that it has jurisdiction over the California High-Speed Train System means the federal National Environmental Policy Act, the Clean Air Act, and Clean Water Act pre-empt CEQA.

On September 16, Kings County and Citizens for California High-Speed Rail Accountability (CCHSRA) filed amicus briefs opposing the Attorney General's claim.

7. Los Angeles to Anaheim Project Section

Status	Phase 1, Blended CaHSR and Metrolink commuter rail
Environmental Review Completion	Spring 2016
Construction Initiation	N/A
Construction Completion	N/A
Estimated Capital Cost	N/A
Service Level and Operation & Maintenance Costs (Low Patronage)	N/A
Service Level and Operation & Maintenance Costs (Medium Patronage)	N/A
Service Level and Operation & Maintenance Costs (High Patronage)	N/A

A 66,000 square-foot \$127 million Anaheim Regional Transportation Intermodal Station will be finished in 2014.

8. Anaheim to San Diego Project Section

Status	Phase 2
Construction Initiation	N/A
Construction Completion	N/A
Estimated Capital Cost	N/A

9. Merced to Sacramento Project Section

Status	Phase 2
Construction Initiation	N/A
Construction Completion	N/A
Estimated Capital Cost	N/A

Interstate High-Speed Rail Connectivity: Mojave Desert Terminus to Las Vegas

A private company (XpressWest, formerly DesertXpress) wanted to build a high-speed rail line from Las Vegas to Victorville with an extension to Palmdale. Would this be an opportunity to link the California High-Speed Train System with a Las Vegas high-speed rail system? High Desert cities such as Palmdale, Barstow, and Victorville were excited about the opportunity.

XpressWest sought a loan of as much as \$6.5 billion from the Federal Railroad Administration Railroad Rehabilitation and Improvement Financing Program (RRIF). On June 23, 2013, the U.S. Department of Transportation informed Xpress West that it would not consider loans to the company to build a high-speed rail line from Las Vegas to Southern California because it could not meet Buy America requirements. (Ironically, California High-Speed Rail Authority is now seeking a waiver from Buy America requirements for prototype trainsets.)

In November 2013, a private company called Las Vegas Railway Express abandoned a plan to operate a conventional X Train (aka Party Train) from Orange County to Las Vegas on track owned in part by BNSF. Amtrak ended operations on that rail line in 1997.

4. Estimated Capital Costs for Each Project Section or Combination of Project Sections for Statewide System

How Much Does This Cost? The Answer Remains Elusive

The California High-Speed Rail 2014 Draft Business Plan – Section 6: Financial Analysis and Funding – does not fulfill the requirements in state law and provides little useful information. It does claim that the total cost of the project (in year of expenditure dollars) for Phase 1, from Los Angeles to San Francisco, is now projected to be \$67.6 billion, slightly lower than the \$68.4 billion projected in the Final 2012 Revised Business Plan, because of lower inflation.

First Construction Segment, with Merced to Madera Subsection and Bakersfield Station

Property Acquisition – Right-of-Way	N/A	N/A
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Construction

Civil Work – Madera to Fresno (Construction Package 1)	\$985,142,530, to \$1,182,988,000 (contract with Tutor Perini/ Zachry/Parsons a Joint Venture	\$1 billion
Civil Work – Fresno to Kern County line (Construction Package 2-3)	\$1.5 billion to \$2 billion	\$1.5 billion to \$2 billion
Civil Work – Kern County line to north of downtown Bakersfield (Construction Package 4)	N/A	N/A
Track – Madera (or Merced) to Bakersfield (Construction Package 5)	N/A	N/A
Electrification (after 2018, to be part of Initial Operating Section)	N/A	N/A
Merced to Madera subsection (civil, track, electrification)	N/A	N/A
Fresno Station	N/A	N/A
Hanford or Visalia Station	N/A	N/A
Bakersfield Station (south of First Construction Segment)	N/A	N/A
Merced Station (north of First Construction Segment)	N/A	N/A

Total YOE Cost of Initial Operating Section (Including First Construction Segment)	\$31.174 billion	\$31 billion
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Total YOE Cost of Bay to Basin	\$19.357 billion	\$19 billion
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Total YOE Cost of Completing Phase 1	\$16.9 billion	\$17 billion
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Grand Total YOE Cost – Phase 1	\$67.431 billion	\$67 billion
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Claim: Grand Total Costs “for the High Speed Rail track, stations, and trains” without property acquisition costs	\$16.3 billion	\$16 billion
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5. Forecast of the Expected Patronage, Service Levels, and Operating and Maintenance Costs for the Phase 1 Corridor and Its Operating Project Sections

Accurate patronage forecasts for the California High-Speed Train System are critical because Proposition 1A included conditional provisions for spending of borrowed money from the sale of bonds authorized by Proposition 1A.

California Streets and Highway Code Section 2704.08

(c)(1) No later than 90 days prior to the submittal to the Legislature and the Governor of the initial request for appropriation of proceeds of bonds authorized by this chapter for any eligible capital costs on each corridor, or usable segment thereof, identified in subdivision (b) of Section 2704.04, other than costs described in subdivision (g), the authority shall have approved and submitted to the Director of Finance, the peer review group established pursuant to Section 185035 of the Public Utilities Code, and the policy committees with jurisdiction over transportation matters and the fiscal committees in both houses of the Legislature, a detailed funding plan for that corridor or a usable segment thereof.

(2) The plan shall include, identify, or certify to all of the following:

(E) The projected ridership and operating revenue estimate based on projected high-speed passenger train operations on the corridor or usable segment.

(J) The planned passenger service by the authority in the corridor or usable segment thereof will not require a local, state, or federal operating subsidy

This language appears to be part of a strategy to convince legislators and voters that the California High-Speed Train System will not be a perpetual drain on state finances. It is somewhat absurd, because the California High-Speed Rail Authority certainly isn't going to return the money appropriated to it and spent in advance if it underestimates the ridership and operating revenue or if it loses money and requires a government subsidy to continue service.

Patronage forecasts have two additional benefits. First, a prospective third-party operator of the CaHST system would appreciate the California High-Speed Rail Authority procuring and paying for elaborate models that forecast ridership. If those forecasts appear to be legitimate and indicate that a third-party operator would have a reasonable opportunity to make a profit, it could encourage early private investment in the CaHST system.

In addition, an accurate ridership forecast for the CaHSR System appears to be important for the design of the traction power supply system (TPSS) that will propel the passenger trains. It will be developed using a system-wide, computer-simulated traction power model based on the ridership demand forecast and supporting train timetable for the CHST System. The model will identify the electrification requirements for confirming the size and location of supply stations, switching stations, and paralleling stations.

Experts have provided California High-Speed Rail Authority with assistance on refining their models for ridership and farebox revenue. But how can the California High-Speed Rail Authority predict the future, especially for eight years from now? We at CCHSRA are appropriately skeptical of computer models that deign to predict future human behavior.

Here are some obvious variables that make 2014 forecasts for ridership and farebox revenue in 2022 and beyond essentially worthless:

- Population and demographics of California statewide and by region
- Strength of the regional, state, national, and international economy
- Percentage and/or number of Californians who will not or cannot own a passenger vehicle
- Prices of gasoline, passenger vehicles, car insurance, etc.
- Prices of jet fuel, planes, and other airline expenses
- Effectiveness of marketing campaigns
- Perceptions of safety within the system
- Legislative initiatives to give free or reduced fares to certain categories of riders, such as students, senior citizens, veterans, or people visiting family members in prison
- Political pressure for trains to make frequent stops at the 24 stations in the CaHST system or to add more stations or more stops
- Prevalence of convenient and effective technologies that reduce demand for intercity travel
- Closure of major tourist attractions such as Disneyland or SeaWorld
- Willingness and ability of Europeans and Asians to travel to California for work or leisure
- Unanticipated factors, such as a pandemic or the division of California into six states

On the other hand, CCHSRA sees numerous ways that government entities can manipulate the market to alter personal travel behavior and ensure the CaHSR system meets ridership and farebox revenue goals in 2022 and beyond. Here are some obvious public policies to change travel behavior by imposing disincentives to drive or fly between California cities:

- Imposition of tolls on highways, particularly on Interstate 5 through the Grapevine and elsewhere, Highway 152 through the Pacheco Pass, Interstate 580 through the Altamont Pass, and on Highway 1 and Highway 101
- Increases in user fees at airports for parking, rental cars, etc.
- Taxes based on vehicle miles traveled by private passenger vehicles
- Restrictions on private passenger vehicles in central neighborhoods of cities

We expect the California State Legislature and the Governor will devise various creative ways to get people out of their cars and out of the planes and into the safe, reliable high-speed rail passenger train for the 21st century.

8. Estimate and Description of Anticipated Federal, State, Local, and Other Funds (Revenue Bonds, Foreign Governments, Private Sources) the Authority Intends to Access to Fund Construction and Operation of Statewide System, and Level of Confidence in Obtaining Funds

The May 4, 2007 published an opinion piece by Governor Arnold Schwarzenegger in which he claimed to support High-Speed Rail but criticized the speculative nature of funding sources for High-Speed Rail.

- Yet it's been more than 10 years, and the state has already spent more than \$40 million in initial planning for the rail line. But there is still *no comprehensive and credible plan* for financing the system so we can get construction under way.
- Yet so far, the only financing party identified with specificity is the state, which the Authority proposes float a \$9.95 billion bond. The remaining 75% of the project cost, or more than \$30 billion, has *yet to be identified with any specificity or confidence*.
- Before asking taxpayers to approve spending nearly \$10 billion plus interest, it is reasonable to expect the authority and its advisers to *identify with confidence* where we will find the remaining \$30 billion.
- Identifying the exact funding sources for large transportation projects is more problematic, which is why we need the authority to *come up with a well-thought out financing proposal* before moving forward.
- That's why I have directed my recent appointees to work with the authority and its financial advisers to develop *a comprehensive plan for financing the project in its entirety*, so we can make high-speed rail a reality in California once and for all.
- With *a responsible plan in place*, we can feel secure in delivering high-speed rail and bringing greater opportunity – and a brighter future – to all Californians.

The 2010 Peer Review Group reports states, “The lack of a financial plan is a critical concern.” It goes on to state, “In a deteriorating budget climate in which even large and highly beneficial projects are abruptly cancelled because of shortage of funds, and in which the likelihood of new large federal funding programs appears small, there is an air of unreality about a plan that includes \$17 to \$19 billion in “free” federal funding from programs that do not exist.”

Some things never change.

Background on Sources of Funding for California High-Speed Rail

State Funding: In November 2008, 52.7% of California voters approved Proposition 1A, which authorizes the state to borrow up to \$9.95 billion by selling bonds to investors.

Federal Funding: In 2009, President Obama signed into law H.R. 1, the “American Recovery and Reinvestment Act of 2009.” In Title XII, the bill appropriated \$8 billion (available to states through September 30, 2012) to the Federal Railroad Administration of the U.S. Department of Transportation for grants to states for capital assistance with high-speed rail corridors and intercity passenger rail service.

On September 30, 2010, the U.S. Department of Transportation’s Federal Railroad Administration awarded \$2,552,556,231 to the California High-Speed Rail Authority for purchasing right-of-way, constructing track, signaling systems, and stations, and completing environmental reviews and engineering documents.

**“First Construction Segment” of Merced to Bakersfield (or Madera to Bakersfield)
(Comprising “Merced to Fresno” and “Fresno to Bakersfield” Project Segments)**

Sources of Funding for First Construction Segment		
California High-Speed Train Program federal grant from American Recovery and Reinvestment Act of 2009 (ARRA), also known as the Obama Stimulus.	\$2,387,380,000	\$2.4 billion
U.S. Department of Transportation Federal Railroad Administration Fiscal Year (FY 2009-2010) grant for construction and delivery of the California High-Speed Train Program Initial Central Valley Section: Madera County to Bakersfield	\$928,620,000	\$929 million
Federal Appropriated Funding Total	\$3,316,000,000	\$3.3 billion
Money to Be Borrowed Through Bond Sales Authorized by Proposition 1A (Approved by Voters in November 2008) and Appropriated (Approved for Expenditure) by California State Legislature and Governor Brown in July 2012	\$2,684 ,000,000	\$2.7 billion
State Appropriated Funding Total	\$2,684 ,000,000	\$2.7 billion
Total Appropriated Funding	\$6,000,000,000	\$6 billion
Cap and Trade Allowances (Taxes) Paid by Industries and Utilities that emit Greenhouse Gases (GHG) (requested in Governor Brown’s 2014-15 budget)	\$250,000,000 (if approved by state legislature)	\$250 million (if approved by state legislature)
Other Possible Funding Options	Unknown	Unknown

Senate Bill 1029 (2012) Appropriations for Construction - \$5,849,752,000

Construction of First Segment from the Federal Trust Fund

Initial Operating Segment, Section 1—Acquisition and Build	\$3,240,676,000
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Construction of First Segment from the High-Speed Passenger Train Bond Fund

Initial Operating Segment, Section 1—Acquisition and Build	\$2,609,076,000
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Total

- The California High-Speed Rail Authority appears to dub what the Federal Railroad Administration called the “Initial Central Valley Section” as its “First Construction Segment.”
- The First Construction Segment planned to be completed and operational in 2018 does NOT include electrification infrastructure, so it will not be capable of high-speed train revenue service at that time. It includes civil work (grading, drainage, bridges, etc.) and track.

- The First Construction Segment may end up extending from Madera to Bakersfield rather than Merced to Bakersfield because of environmental issues concerning the Chowchilla Wye.
- The First Construction Segment at this time ends on the north side of Bakersfield and will probably not include a Bakersfield station.
- High-speed passenger trains will not begin revenue operations on the First Construction Segment until the Initial Operating Segment from Merced to Sylmar/San Fernando Valley (or Los Angeles) is completed with electrification in 2022. The Amtrak California San Joaquin train with new Siemens Charger locomotives will probably use the track from 2018 to 2022.
- \$2,552,556,231 was the total amount of the California High-Speed Train Program federal grant from the American Recovery and Reinvestment Act of 2009 (ARRA). It was authorized for station area planning and construction of the Initial Central Valley Section (Madera to Bakersfield), but it was also designated for engineering and environmental analysis for Phase 1. The California High-Speed Rail Authority claims a total of \$3,316,000,000 of federal grant money will be spent on the First Construction Segment, including the \$928,620,000 federal grant from the FY 2009-2010 federal budget. Therefore, we conclude that \$165,176,231 of the \$2,552,556,231 ARRA grant was used on other portions of Phase 1 work, leaving \$2,387,380,000 of the ARRA grant for the First Construction Segment.

Bookends

Sources of Funding

Money to Be Borrowed Through Bond Sales Authorized by Proposition 1A (Approved by Voters in November 2008) and Appropriated (Approved for Expenditure) by California State Legislature and Governor Brown in July 2012	\$2,076,000,000	\$2 billion
Numerous Sources of Federal, State, and Local Funding	Unknown	Unknown
A Dozen Additional Potential Sources of Funding	Unknown	Unknown

Connectivity

Sources of Funding

Cap and Trade Allowances (Taxes) Paid by Industries and Utilities that emit Greenhouse Gases (GHG) (requested in Governor Brown's 2014-15 budget)	\$50,000,000 (if approved by state legislature)	\$50 million (if approved by state legislature)
A Dozen Additional Potential Sources of Funding	Unknown	Unknown

Breakdown of Senate Bill 1029 Appropriations for California High-Speed Train System

Land Acquisition - \$152,377,000

Funds to High-Speed Rail Authority for Land Acquisition from “Federal Trust Fund”

San Francisco to San Jose	\$5,135,000
Merced to Fresno	\$2,297,000
Fresno to Bakersfield	\$3,119,000
Bakersfield to Palmdale	0
Palmdale to Los Angeles	\$2,566,000
Los Angeles to Anaheim	\$4,299,000
Project Management and Agency Costs	\$10,894,000
Total	\$28,310,000

Funds to High-Speed Rail Authority for Land Acquisition from High-Speed Passenger Train Bond Fund

San Francisco to San Jose	\$5,135,000
Merced to Fresno	\$2,297,000
Fresno to Bakersfield	\$3,119,000
Bakersfield to Palmdale	\$0
Palmdale to Los Angeles	\$2,566,000
Los Angeles to Anaheim	\$4,299,000
Los Angeles to San Diego	\$37,055,000
Merced to Sacramento	\$29,700,000
Altamont Pass	\$20,375,000
Project Management and Agency Costs	\$19,521,000
Total	\$124,067,000

Design - \$100,150,000

Funding to High-Speed Rail Authority for Design from “Federal Trust Fund”

(Subject to review by the State Public Works Board)

San Francisco to San Jose	\$74,000
Merced to Fresno	\$4,987,000

Fresno to Bakersfield	\$8,246,000
Bakersfield to Palmdale	\$195,000
Palmdale to Los Angeles	0
Los Angeles to Anaheim	0
Project Management and Agency Costs	\$6,542,000
Total for Design from Federal Trust Fund	\$20,044,000

Funding to High-Speed Rail Authority for Design from High-Speed Passenger Train Bond Fund (Subject to review by the State Public Works Board)

San Francisco to San Jose	\$74,000
Merced to Fresno	\$4,987,000
Fresno to Bakersfield	\$8,246,000
Bakersfield to Palmdale	\$195,000
Palmdale to Los Angeles	\$0
Los Angeles to Anaheim	\$0
Los Angeles to San Diego	\$19,068,000
Merced to Sacramento	\$24,176,000
Altamont Pass	\$16,055,000
Project Management and Agency Costs	\$7,305,000
Total	\$80,106,000

Initial Operating Section Beyond First Construction Segment (Comprising “Bakersfield to Palmdale” and “Palmdale to Los Angeles” [or Sylmar/San Fernando Valley/Los Angeles] Project Segments)

Sources of Funding

Remaining Money to Be Borrowed Through Bond Sales Authorized by Proposition 1A (Approved by Voters in November 2008) and Not Yet Appropriated by California State Legislature and Governor	\$4,240,000,000	\$4.2 billion
Cap and Trade Allowances (Taxes) Paid by Industries and Utilities that Emit Greenhouse Gases (GHG)	Unknown	Unknown
A Dozen Additional Potential Sources of Funding	Unknown	Unknown

- The \$2,684,000,000 of Prop 1A funds appropriated for the First Construction Segment added with the \$4,240,000,000 of Prop 1A authorized and available for the remaining work on the Initial Operating Section totals \$6,924,000.
- The remaining \$2,076,000,000 of the \$9,000,000,000 in Proposition 1A funding for the High-Speed Train System is designated for Bookends.

Completion of Bay to Basin (in 2026) – Adding the San Jose to Merced Project Segment

Sources of Funding

Net Operating Cash Flow from Revenue Service on Initial Operating Segment	\$165 million (\$24 million in 2022 and \$141 million in 2023)	\$165 million
Private Sector Financing	\$8.542 billion	\$8.5 billion
Cap and Trade Allowances (Taxes) Paid by Industries and Utilities that Emit Greenhouse Gases (GHG)	Unknown	Unknown
A Dozen Additional Potential Sources of Funding	Unknown	Unknown

- The \$8.542 billion from private sector financing is the midpoint of an estimated range between \$6.2 billion and \$12.4 billion.
- The \$165 million Net Operating Cash Flow from Revenue Service on Initial Operating Segment is based on the “Medium Scenario” for ridership. It is the sum of \$24 million in 2022 (\$324 million in revenue minus \$300 million in operations and maintenance) and \$141 million in 2023 (\$475 million in revenue minus \$334 million in operations and maintenance).

Completion of Phase 1 (in 2028) – Adding the San Francisco to San Jose Project Segment and Los Angeles to Anaheim Project Segment

Sources of Funding

Net Operating Cash Flow from Revenue Service on Initial Operating Segment	\$1,025,000,000 (\$221 million in 2024, \$323 million in 2025, \$481 million in 2026)	\$1 billion
Private Sector Financing	Unknown	Unknown
Cap and Trade Allowances (Taxes) Paid by Industries and Utilities that Emit Greenhouse Gases (GHG)	Unknown	Unknown
A Dozen Additional Potential Sources of Funding	Unknown	Unknown

- The \$1.025 million Net Operating Cash Flow from Revenue Service on Initial Operating Segment is based on the “Medium Scenario” for ridership. It is the sum of \$221 million in 2024 (\$639 million in revenue minus \$418 million in operations and maintenance), \$323 million in 2025 (\$819 million in revenue minus \$496 million in operations and maintenance), and \$481 million in 2026 (\$1.019 billion in revenue minus \$538 million in operations and maintenance),

Grant/Cooperative Agreement Funding Responsibility: Federal Railroad Administration/California High-Speed Rail Authority

Provisions	FRA Funding Assistance	+	Grantee Cash Contribution	+	Grantee In-Kind Contribution	=	Total Project Funding
Original Agreement	\$194,000,000	+	\$194,000,000	+	\$0	=	\$388,000,000
Amendment No. 1 (PE/NEPA/CEQA)	\$37,500,000	+	\$53,500,000	+	\$0	=	\$91,000,000
Amendment No. 1 (FD/Construction)	\$2,234,676,231	+	\$2,236,676,231	+	\$0	=	\$4,471,352,462
Amendment No. 2 (FD/Construction)	\$86,380,000	+	\$21,595,000	+	\$0	=	\$107,975,000
Total Amount	\$2,552,556,231	+	\$2,505,771,231	+	\$0	=	\$5,058,327,462

FRA normally provides grant funds as a reimbursement after the recipient of funds submits proper invoices for actual expenses incurred, but it is allowed by law to make advance payments after receipt and approval of a written justification and request from the grant recipient. In December 2012, FRA and the Authority amended its Grant/Cooperative Agreement to provide the Authority with payment in advance of the State’s matching funds, a departure from standard Federal/local cost share agreements where funds must be spent concurrently. The California High-Speed Rail Authority is required to submit quarterly financial status reports and progress

reports (January 1 - March 31, April 1 - June 30, July 1 - September 30, and October 1 - December 31) with a certified statement confirming conditions such as these:

- There has been no material adverse change in pending litigation, including the timeline for resolution, or change in any other circumstances that might prevent the Grantee from securing and delivering its required matching funding contribution
- The California High-Speed Rail Authority has completed all actions necessary to provide its matching funding contribution as required by the terms of this Agreement and the Funding Contribution Plan.
- Progress on the Project is being made in a sound, economical, and efficient manner, and in accordance with all applicable laws, regulations, and published policies
- There has been no change in law, conditions, or any other event, including litigation, that may affect the Grantee's ability to complete the Project in accordance with the terms of this Agreement

A November 26, 2013 letter from U.S. Representative Jeff Denham to the U.S. Government Accountability Office asked the agency to investigate four questions:

1. Is the Authority currently violating, or on the verge of violating its grant agreements with the Federal government? If the Authority is in violation of those agreements, what remedies are available to the Federal government?
2. In August, the Authority was found to be non-compliant with State law regarding the project's funding and environmental requirements. What impact does this finding have on the California grant agreements with the Federal government?
3. Since the Federal Railroad Administration continues to expend grant funds paying the Authority for current activities, do the recent State court rulings put the Federal Railroad Administration in violation of any Federal laws, including the Anti-Deficiency Act? If so, what remedies are available to the Federal government?
4. What responsibility falls on the Federal Railroad Administration to re-evaluate the grant agreement in light of these court rulings?

Possible Funding Options for California High-Speed Rail Construction

1. **Cap and Trade Funds.** As proposed by the Governor, Cap and Trade funds could be used to construct the High Speed Rail System because the system is expected to reduce Greenhouse Gas Emissions in the future.
2. **Proposition 1A Bond Funds.** Currently \$4 billion remain unappropriated and can be used for continued construction.
3. **Federal Funds.** Typically, large transportation projects receive federal support, sometimes up to 75 percent of total funding.
4. **Federal Railroad Administration Railroad Rehabilitation and Improvement Financing (RRIF) Loans.** The RRIF program was established by the Transportation Equity Act for the 21st Century (TEA-21) and amended by the Safe Accountable, Flexible and Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU). Under this program, the FRA Administrator is authorized to provide direct loans and loan guarantees up to \$35.0 billion to finance development of railroad infrastructure. Up to \$7.0 billion is reserved for projects benefiting freight railroads other than Class I carriers. These loans have a 35-year term at 3.75% interest.
5. **Private Funding.** The business plan anticipates private investment in the system, likely in exchange for the rights to operate the High Speed Rail system. The State is likely going to get more favorable terms for such private participation if it is closer to operational services.
6. **Additional Bond Financing.** The State could issue either General Obligation or Lease Revenue bonds to continue construction efforts. These mechanisms provide the project with the ability to leverage large sums of funding that allow them to achieve economies of scale in construction.
7. **Local Transportation Funding.** It is likely that local transportation agencies will look for ways to leverage High Speed Rail funding and construction to achieve local goals. The work done so far on the "bookends" suggests that local agencies will make improvements to existing "blended" sections as partners, which may help the project achieve better value.
8. **Revenue from Concession Agreements.** The 520-mile right of way will offer utilities, telecommunications, and cable providers opportunities to generate revenue by leasing access. Eventually the train stations themselves will also offer retail revenue opportunities.
9. **Public Transportation Account Funding.** High Speed Rail is an eligible use for these funds; however, these funds are scarce and already dedicated to public transit. The Administration has used this funding for cash-flow purposes, such as the bridge-loan provided in the current year (and proposed for the budget year) which have no programmatic impact.
10. **General Fund.** It is always possible to use one-time or ongoing General Fund to support the project, or to pay for debt service associated with the system.

Source: April 2, 2014 staff report to Committee on Budget and Fiscal Review: Subcommittee No. 2 on Resources, Environmental Protection, Energy and Transportation

Bond Interest

In its August 29, 2008 analysis of Proposition 1A (the Safe, Reliable High-Speed Passenger Train Bond Act), the Legislative Analyst's Office estimated a total cost of \$19.4 billion to California taxpayers, including interest:

The costs of these bonds would depend on interest rates in effect at the time they are sold and the time period over which they are repaid. While the measure allows for bonds to be issued with a repayment period of up to 40 years, the state's current practice is to issue bonds with a repayment period of up to 30 years. If the bonds are sold at an average interest rate of 5 percent, and assuming a repayment period of 30 years, the General Fund cost would be about \$19.4 billion to pay off both principal (\$9.95 billion) and interest (\$9.5 billion). The average repayment for principal and interest would be about \$647 million per year.

During media interviews after the March 18, 2013 board meeting, California High-Speed Rail Authority chairman Dan Richard claimed the cost of interest payments for the entire project could eventually reach \$700 million per year. He also claimed that interest on the first \$2.61 billion in bond sales authorized by Senate Bill 1029 (2012) would cost \$175 million per year over 30 years.

As stated in this article [California Bullet Train Clears One Obstacle; Land, Legalities Remain](#), "It all depends on Wall Street, but for estimation purposes, the state is using a 6.5 percent interest rate for 35 years." This was the rate cited by Chairman Richard during the media interviews.

But later in the meeting, he said that the state would pay interest on the bonds NOT from the general fund, but from vehicle weight fees paid by truckers.

Fox News 11 in Los Angeles reported on this revelation with its March 28, 2013 story [Money Shell Game? Potholes or High Speed Rail](#):

Those are fees paid when trucks are too heavy. And that money is supposed to go to highway construction projects. This is typical of the entire way the rail authority operates. Things change. You don't know what's going on, there's very little transparency and openness. Essentially, all they're doing is taking the money, transferring it into another fund and pretending the general fund is not paying for it. In reality, California taxpayers are still paying the interest.

Assembly Bill 105 (2011) authorized vehicle weight fees to pay interest on bonds for transportation projects, allowing these fees once paid to maintain roads to go to non-road projects. The March 13, 2013 California Legislative Analyst's Office Overview of Transportation Funding explains how vehicle weight fees will pay interest in 2013-14 on transportation-related bonds:

In addition to ongoing revenues from fuel taxes, the state has issued general obligation bonds in order to pay for transportation projects. The largest such bond measure was

Proposition 1B (2006), which authorized the state to sell \$20 billion in bonds to finance transportation projects. The Governor's budget estimates that the debt-service costs on Proposition 1B and other outstanding transportation bonds will be about \$1.1 billion in 2013-14.

Vehicle weight fees are used to pay the debt-service cost on transportation bonds rather than the General Fund. For 2013-14, the Governor's budget uses all \$946 million in weight fees to benefit the General Fund. Of this amount, \$907 million is to pay debt service and \$39 million is loaned to the General Fund and set aside for future debt service.

In addition, the Governor's budget proposes to use miscellaneous revenues in the SHA to pay transportation debt service on an ongoing basis.

What Were the 2008 Cost Estimates for Interest Paid on the Bonds?

The official legislative analysis of Proposition 1A provided voters with an estimated cost of selling bonds with a 30-year maturity:

If the bonds are sold at an average interest rate of 5 percent, and assuming a repayment period of 30 years, the General Fund cost would be about \$19.4 billion to pay off both principal (\$9.95 billion) and interest (\$9.5 billion). The average repayment for principal and interest would be about \$647 million per year.

A July 7, 2008 Senate Appropriations Committee analysis estimated the cost of selling bonds with a 40-year maturity:

AB 3034 would extend the maximum allowable bond maturity term from 30 years to 40 years. Assuming the same interest and inflation rates, this bill could result in an increase in total General Fund costs of \$3.78 billion if the term of the bonds is extended to 40 years (to a total cost of \$23.2 billion). Annual debt service payments would be \$580 million for 40 years.

According to Section 5.02(b)(vii) of the resolutions passed on March 18, the Treasurer is now authorized to borrow the \$8.6 billion by selling bonds with a maturity period of 35 years

So does the Governor's past budgets and proposed 2014-15 budget adequately account for interest to be paid on already borrowed money and future borrowed money for California High-Speed Rail through bond sales? It depends on how the California State Treasurer intends to structure and market them.

Timeline for Bond Issues: Borrowing Money for California High-Speed Rail

Amount Borrowed Through Bond Sales	Date and Action	Link to Source Documents
\$0	<p>August 26, 2008 – Governor Schwarzenegger signs into law Assembly Bill 3034, which puts the “Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century” (Proposition 1A) on the November 4, 2008 California ballot. According to the bill, the state would borrow \$9.95 billion through bond sales in order to “encourage the federal government and the private sector to make a significant contribution toward the construction of the high-speed train system.” Borrowed money would be available for the California High-Speed Rail Authority to spend under specified conditions and criteria for planning, land acquisition, design, engineering, and construction. The California High-Speed Rail Authority would be required to pursue and obtain other private and public funds, including, but not limited to, federal funds, funds from revenue bonds, and local funds. The California State Treasurer would sell the bonds as authorized by an appointed California High-Speed Passenger Train Finance Committee under terms and conditions specified in committee resolutions. Bonds could have a maturity period as long as 40 years. The committee would consider program funding needs, revenue projections, financial market conditions, and other necessary factors in determining the term for the bonds to be issued. Each year, the state would collect taxes and fees for the General Fund that would pay principal and interest to bond investors. In addition, the board of the California High-Speed Rail Authority could request a loan from the Pooled Money Investment Board to make a loan against the amount of authorized but unsold bonds.</p>	Assembly Bill 3034 (2008) Proposition 1A
\$0	<p>November 4, 2008 – 52.7% of California voters (including 78.4% of San Francisco voters) approve Proposition 1A.</p>	November 2008 Election Results

Amount Borrowed Through Bond Sales	Date and Action	Link to Source Documents
\$0	January 16, 2009 – the High-Speed Passenger Train Finance Committee approves Resolution I under the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, authorizing the issuance of State of California High-Speed Passenger Train Bonds or Commercial Paper Notes in the principal amount not to exceed \$32,010,000. The committee also approved Resolution II under the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, authorizing the issuance of State of California High-Speed Passenger Train Refunding Bonds in the aggregate principal amount outstanding not to exceed \$32,010,000.	January 16, 2009 Minutes Resolution I Resolution II
\$0	February 1, 2009 – Long Term Bonds Outstanding	State Public Works 2009
\$0	April 6, 2009 – “The High Speed Rail Authority had been financed via a commercial paper issue.”	April 6, 2009 Minutes

Amount Borrowed Through Bond Sales	Date and Action	Link to Source Documents
\$0	<p>April 15, 2009 – the High-Speed Passenger Train Finance Committee approves Resolution III under the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, (i) amending the provisions of Resolution I authorizing the issuance of State of California High-Speed Passenger Train Bonds or Commercial Paper Notes in the principal amount not to exceed \$32,010,000, and (ii) authorizing the issuance of State of California High-Speed Passenger Train Bonds or Commercial Paper Notes in the principal amount not to exceed (a) the principal amount unissued under Resolution I of \$32,010,000 and (b) an additional principal amount not to exceed \$448,790,000, for a total principal amount not to exceed \$480,800,000. The Committee also approves Resolution IV under the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, authorizing the issuance of State of California High-Speed Passenger Train Refunding Bonds in the aggregate principal amount outstanding not to exceed \$480,800,000.</p>	<u>April 15, 2009 Minutes</u> <u>Resolution III</u> <u>Resolution IV</u>
\$90,045,000	<p>April 22, 2009 – the California State Treasurer sells \$90,045,000 of Safe Reliable High Speed Passenger Train 21st Century Series A Build America Bonds, Federally Taxable. CDIAC Number: 2009-0940</p> <p>Standard & Poor's Rating: A</p> <p>Moody's Rating: A2</p> <p>Fitch Rating: A –</p> <p>Term: 30 years</p> <p>Rate: VAR%</p> <p>At the August 6, 2009 board meeting, the Authority executive director noted that this money was a piece of a \$4-5 billion state bond sale and would be used by the Authority in FY 2009-10.</p>	<u>2009 Annual Report</u>

Amount Borrowed Through Bond Sales	Date and Action	Link to Source Documents
\$90,045,000	July 1, 2009 – Long Term Bonds Outstanding	2009 Treasurer Publication
\$90,045,000	August 1, 2009 – Long Term Bonds Outstanding	Official Statement
\$90,045,000	October 1, 2009 – Long Term Bonds Outstanding	Official Statement
\$258,395,000	<p>October 8, 2009 – the California State Treasurer sells \$168,350,000 of Safe Reliable High Speed Passenger Train 21st Century Series B Build America Bonds, Federally Taxable. CDIAC Number: 2009-1481 Standard & Poor's Rating: A</p> <p>Moody's Rating: Baa1</p> <p>Fitch Rating: BBB</p> <p>Term: 30 years</p> <p>Rate: 6.933%</p>	2009 Annual Report
\$258,395,000	<p>January 20, 2010 – the High-Speed Passenger Train Finance Committee amends Resolution III with resolution V and Resolution IV with Resolution VI. These two resolutions reflect changes to the General Obligation Bond Law that became effective January 1, 2010, and other technical amendments.</p>	January 20, 2010 Minutes Resolution V Resolution VI
\$258,395,000	February 1, 2010 – Long Term Bonds Outstanding	Official Statement
\$258,395,000	June 30, 2010 – Long Term Bonds Outstanding	Official Statement
\$258,395,000	October 1, 2010 – Long Term Bonds Outstanding	Official Statement

Amount Borrowed Through Bond Sales	Date and Action	Link to Source Documents
\$309,060,000	<p>November 19, 2010 – the California State Treasurer sells \$50,665,000 of Safe Reliable High Speed Passenger Train 21st Century Series C, Federally Taxable. CDIAC Number: 2010-1714</p> <p>Standard & Poor's Rating: A-</p> <p>Moody's Rating: A1</p> <p>Fitch Rating: A –</p> <p>Term: 30 years</p> <p>Rate: 7.438%</p>	<u>2010 Annual Report</u>
\$410,050,000	<p>November 22, 2010 – the California State Treasurer sells \$100,990,000 of Safe Reliable High Speed Passenger Train 21st Century Series D. CDIAC Number: 2009-1695</p> <p>Standard & Poor's Rating: A-</p> <p>Moody's Rating: A1</p> <p>Fitch Rating: A-</p> <p>Term: 30 years</p> <p>Rate: 5.133%</p>	<u>Official Statement</u> <u>see earlier</u> <u>Official Statement</u>
\$410,050,000	June 30, 2011 – Long Term Bonds Outstanding	<u>2011 Annual Report</u>

Amount Borrowed Through Bond Sales	Date and Action	Link to Source Documents
\$410,050,000	<p>September 21, 2011 – High-Speed Passenger Train Finance Committee approves Resolution VII, which amends Resolution III authorizing the issuance of State of California High-Speed Passenger Train Bonds or Commercial Paper Notes in the principal amount not to exceed \$480,800,000, and (ii) authorizing the issuance of State of California High-Speed Passenger Train Bonds or Commercial Paper Notes in the principal amount not to exceed (a) the principal amount unissued under Resolution III of \$70,750,000 and (b) an additional principal amount not to exceed \$59,250,000, for a total principal amount not to exceed \$130,000,000. The Committee also approves Resolution VIII under the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, authorizing the issuance of State of California High-Speed Passenger Train Refunding Bonds in the aggregate principal amount outstanding not to exceed \$540,050,000.</p>	September 21, 2011 Minutes Resolution VII Resolution VIII
\$410,050,000	August 1, 2011 – Long Term Bonds Outstanding	Official Statement
\$499,285,000	October 25, 2011 – the California State Treasurer to sell \$91,225,000 of Safe Reliable High Speed Passenger Train 21st Century bonds as Series E .	Official Statement
\$499,285,000	November 1, 2011 – Treasurer Lockyer Comments on Revised High-Speed Rail Business Plan.	November 1, 2011 Press Release
\$499,285,000	January 1, 2012 – Long Term Bonds Outstanding	Official Statement
\$499,285,000	February 1, 2012 – Long Term Bonds Outstanding	Official Statement
\$499,285,000	June 30, 2012 – Long Term Bonds Outstanding	2012 Annual Report

Amount Borrowed Through Bond Sales	Date and Action	Link to Source Documents
\$499,285,000	July 18, 2013 – As required under Proposition 1A, Governor Jerry Brown signs into law Senate Bill 1029, which appropriates \$2,609,076,000 in Proposition 1A funds plus \$3,240,676,000 in federal funds for the first operating segment of the High-Speed Rail between Madera and Bakersfield, \$1,100,000,000 for “Bookend” funding, \$106,000,000 to Caltrans for capital improvement projects to intercity and commuter rail lines and urban rail systems that provide direct connectivity, and an appropriation of \$713,333,000 for “Connectivity” funding.	Senate Bill 1029 (2012)
\$499,285,000	February 1, 2013 – Long Term Bonds Outstanding	Official Statement
\$499,285,000	March 18, 2013 – California High-Speed Rail Authority approves Resolutions #13-03 and #13-04 requesting the California High-Speed Passenger Train Finance Committee to authorize the sale of \$8,599,715,000 in bonds.	Resolution #13-03 Resolution #13-04
\$499,285,000	March 18, 2013 – the High-Speed Passenger Train Finance Committee approves Resolution IX and Resolution X to authorize sale of \$8,599,715,000 in bonds.	Resolution X

Amount Borrowed Through Bond Sales	Date and Action	Link to Source Documents
\$499,285,000	<p>March 29, 2013 – the High-Speed Passenger Train Finance Committee previously adopted Resolution III authorizing the issuance of State of California High-Speed Passenger Train Bonds or Commercial Paper Notes in the Principal Amount Not to Exceed \$480,800,000 (“Resolution III”) and Resolution VII authorizing the issuance of State of California High-Speed Passenger Train Bonds or Commercial Paper Notes in the Principal Amount Not to Exceed \$130,000,000 (“Resolution VII”). As of March 29, 2013, the State had issued \$100,990,000 State of California High-Speed Passenger Train Bonds, Series D, currently outstanding in the principal amount of \$99,000,000 (the “Resolution III Bonds”) pursuant to Resolution III. \$38,775,000 remains in principal amount of bonds or commercial paper notes under Resolution VII, and the Committee now desires to authorize the issuance of bonds to refund any bonds issued from time to time under Resolution VII (the “Resolution VII Bonds”).</p>	<u>Resolution XI</u>
\$538,060,000	<p>April 11, 2013 – the California State Treasurer to sell \$38,775,000 of Safe Reliable High Speed Passenger Train 21st Century bonds as Series F.</p>	<u>Official Statement</u>
\$703,530,000	<p>April 11, 2013 – the California State Treasurer to sell \$165,470,000 of Safe Reliable High Speed Passenger Train 21st Century bonds as Series G.</p>	<u>Official Statement</u>

9. Written Agreements with Public or Private Entities to Fund Components of High-Speed Rail System, Including Stations and Terminals

Section 2704.07 of the California Streets and Highways Code, as added through Proposition 1A, states that “The authority shall pursue and obtain other *private* and public funds, including, but not limited to, federal funds, funds from revenue bonds, and *local funds*, to augment the proceeds of this chapter.” And Section 8(e) of Assembly Bill 3034 (Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century), signed into law in 2008, states that “The high-speed passenger train bond funds are intended to encourage the federal government and the *private sector* to make a significant contribution toward the construction of the high-speed train system.”

So far the encouragement doesn’t seem to be working. The November 2008 California High-Speed Train Business Plan offered some theories:

Private Funding/Public-Private Partnerships (P3): Interest from the private sector is strong and diverse. The Authority, assuming normalized market conditions, is targeting \$6.5-\$7.5 billion in potential P3 funding for the Los Angeles/Anaheim to San Francisco section of the project. Major sources of investment are likely to include private equity funds, pension funds, new infrastructure funds and corporate operational partners.

In the spring of 2008, the Authority issued a Request for Expressions of Interest (RFEI) as an effort to gauge private sector interest in participating in a P3 arrangement for the high-speed train project. Interest was strong, especially among construction firms, system and equipment providers, financial institutions and operators.

However, most private firms responding made it clear that they would need both financial and political commitments from state officials that government would share the risks to their participation. The amount of private funding and timing of private sector participation will be a reflection of how risky the private sector perceives this project overall.

In October 2008, the California High-Speed Rail Authority issued a “Report of Responses to the Request For Expressions of Interest For Private Participation in the Development of a High-Speed Train System in California,” as “intended to assist the Authority in these efforts as they relate to the availability, magnitude, and timing of private funds, and the public-private partnership (P3) structure and project delivery mechanisms that the Authority should consider.” The report includes these observations about potential private investment:

In general, **construction firms** focused on strong financial support from the public sector for the HST Project as their primary criteria for participation. Funding from state and federal sources and environmental clearance were noted as the most important criteria by over 90 percent of contractors. As a result of possible future payment risks, construction firms are also likely to pay close attention to ridership and revenue forecasts and risk sharing arrangements; three-fourths of respondents indicated these criteria as key factors for participation...Echoing the sentiments of construction firms, systems and equipment

providers also identified a strong financial commitment from the public sector as their most important criteria for participation. Funding from state and federal sources was identified by all equipment providers as important to their involvement in the Project.

In contrast to equipment providers and contractors, **financial institutions** focused on concession terms and risk sharing arrangements as their most important criteria for participation in the Project. Four out of five firms selected project cost, fare-setting capability, contractual concerns, concession terms and risk sharing as vital criteria for participation. Public funding was identified by three out of the five participants as important to their participation.

Public funding requirements from both state and federal sources and potential concession terms were of equal importance to all **system operators**. The five operators were also in agreement as they each cited risk-sharing arrangements, fare-setting capability, and ridership and revenue forecasts as vital criteria for participation. They were also in unanimous agreement of the top six participation requirements stated previously: state funding, federal funding, ridership and revenue forecasts, risk sharing, local funding and fare setting. These firms were also strong advocates of local funding and environmental clearance.

Several respondents...indicated that investments subject to repayment from public dollars are seen as substantially less risky than those subject to ridership risk.

Over 90 percent of RFEI respondents cited a strong commitment of public funds from federal, state and/or local sources as a prerequisite for their participation and continued interest in the HST Project. Nearly all RFEI respondents noted that they would be unlikely to commit the resources necessary to participate in a procurement of this magnitude until after strong financial backing for the Project was provided by the public sector.

Respondents also commented on the overall level of public funding needed. Several RFEI respondents communicated that public funding on the order of 60 to 70 percent of total Project costs would be expected for the HST Project. One respondent cited an expectation that was slightly higher, at 80 to 85 percent. Several respondents advocated for public monies paying for much of the up front, civil works expenditures, with private money to follow later in the Project. It was clear from RFEI responses that only after a strong commitment of public dollars to ensure Project viability would there be serious interest in private investment in the HST Project.

Significant time and financial resources are necessary in order for private firms to remain committed to participation in the Project, and these resources are unlikely to materialize without a strong message from the public sector that the HST Project will receive the support necessary from the public sector to make the Project a reality.

10. Impediments to Completion of Statewide System

The High Speed Rail Authority has been unable to expend Proposition 1A bond funding because of rulings against it in two court cases: *John Tos; Aaron Fukuda and County of Kings v. California High Speed Rail Authority and High-Speed Rail v. All Persons Interested*. The Courts denied the Authority's request to validate Proposition 1A bond funds and have required the High Speed Rail Authority to rescind its 2011 financing plan that had been submitted to the Legislature prior to the 2012 appropriation.

A third legal challenge also exists regarding one of the Authority's environmental reviews.

In the Authority's Project Update Report, issued March 1, 2014, the Authority provided an update on all three major court challenges to the project, which are summarized below:

1. *High-Speed Rail v. All Persons Interested* – Filed in Sacramento Superior Court on March 19, 2013. On January 24, 2014 the Authority filed a Petition for Extraordinary Writ with the California Supreme Court to revise the Superior Court's denial to validate the bond funds. On February 14, 2014, the appellate court announced that it will take up the State request for expedited review. The opposition briefs were due on March 17, 2014 and the Authority reply is due April 1, 2014.
2. *John Tos, Aaron Fukuda, and the County of Kings v. California High Speed Rail Authority* – Filed in Sacramento Superior Court on November 14, 2011. On November 23, 2013 the court ordered that the Authority rescind its November 2011 funding plan. In January the Authority, the state Department of Finance, the State Treasurer, and the California State Transportation Agency filed a Supreme Court Extraordinary Writ to overturn the Superior Court Ruling. On February 14, 2014, the appellate court announced that it will take up the State request for expedited review. The opposition briefs were due on March 17, 2014 and the Authority reply is due April 1, 2014.
3. *Town of Atherton v. California High Speed Rail Authority*.Appealed to the Third Appellate District, April 13, 2012 – In November 2011 the Sacramento County Superior Court ruled the Authority had complied with the environmental review requirements in CEQA for the Bay Area to Central Valley EIR/EIS and that the public was adequately engaged in the environmental review process. The plaintiffs are appealing this ruling. The Authority has since provided notice to the court of the Surface Transportation Board's decision to take over jurisdiction of the Authority's project, which may preempt State laws, including CEQA. The Court of Appeal ordered briefings on the preemption issue. All briefs are submitted. Oral argument is scheduled for May 20, 2014.

11. Alternative Public-Private Development Strategies for Implementation of Phase 1 Corridor and Project Sections

We aren't able to say much about this, and neither does the 2014 Draft Business Plan.

12. Discussion of All Reasonably Foreseeable Risks the Project May Encounter and Strategies, Processes, and Actions to Manage Them

Risk Management

Section 8 of the California High-Speed Rail Authority 2014 Draft Business Plan addresses its “Systems Assurance/Risk Management” program with several pages of abundant risk management jargon. Don’t let the Business Plan deceive you into thinking that internal organizational motivation led the California High-Speed Rail Authority to improve its risk management program and processes.

In an attempt to bring some control and accountability in the California High-Speed Rail Authority, the state legislature inserted three risk management requirements in Senate Bill 1029, which appropriated \$8,021,612,000 (\$8 billion) in 2012 for the California High-Speed Train System and bookend and connectivity projects:

- *On or before March 1 and November 15 of each year... the High-Speed Rail Authority shall provide a Project Update Report...on the development and implementation of intercity high-speed train service...with all information necessary to clearly describe the status of the project, including, but not limited to, all of the following: ... (h) A thorough discussion of various risks to the project and steps taken to mitigate those risks.*
- *Sixty days prior to awarding the contracts scheduled to be awarded in December 2012 to commence construction of the first construction segment of the initial operating section, the High-Speed Rail Authority shall fill the positions of chief executive officer, **risk manager**, chief program manager, and chief financial officer and report those hiring to the Joint Legislative Budget Committee.*
- *Prior to awarding the contracts scheduled to be awarded in December 2012 [actually, June 2013] to commence construction of the first construction segment of the initial operating section, the High-Speed Rail Authority shall prepare and submit a report...detailing elements of risk in the high-speed rail project, including all of the following:
 - (a) A comprehensive **risk management plan** that defines roles and responsibilities for **risk management** and addresses the process by which the authority will identify and quantify project **risks**, implement and track **risk response** activities, and monitor and control **risks** throughout the duration of each project.
 - (b) Quantification of the effect of identified **risks** in financial terms.
 - (c) Development documents to track identified **risks** and related mitigation steps.
 - (d) Plans for regularly updating its estimates of capital and support costs.*

(e) Plans for regularly reassessing its reserves for potential claims and unknown risks, incorporating information related to risks identified and quantified through its risk assessment processes.

(f) Plans for regularly integrating estimates for capital, support costs, and contingency reserves in required reports.

Based on the 2014 Business Plan, we gleaned the following information about the latest developments in California High-Speed Rail Authority risk management:

Program

- Created and filled a Program Risk Manager position so that someone in the organization is specifically assigned responsibility for coordinating risk management. (
- Incorporated ideas from experts who work with high-speed rail programs in other countries.
- Considered and adopted recommendations from knowledgeable and experienced individuals in its Peer Review Group,
- Issued two Project Risk Management Plans to the state legislature (November 2012 and July 2013).
- Developed a Master Quality Plan to integrate into a Quality Management System.
- Implementing a “Safety and Security Management Plan.”

Process

- Established a structured five-step process for dealing with risk: identification, assessment, analysis, management, monitoring and control.
- Adopted and refined computer models to determine and quantify risk, often using something called “Monte Carlo simulations” in which a simulation with certain variables is performed and recorded many times in order to create a comprehensive pattern that reveals the likelihood of a risk.
- Attempting to narrow the terminology and process to transportation infrastructure rather than more generalized construction project delivery. (We ask: why not narrow it to high-speed rail construction?)

Is the Authority’s Risk Management Program Useful, or Does It Simply Look Good?

Any methodology for predicting the future has its strengths and weaknesses. We will refrain from declaring the California High-Speed Rail Authority risk management program as sound or flawed. As the first high-speed rail project in the United States, the CaHST System will encounter challenges and opportunities that no one can foresee. California in itself has its own special culture that may respond to and influence a high-speed rail program differently than how people may respond to a high-speed rail system in France, the People’s Republic of China, the Northeast Corridor megalopolis from Boston to Washington, D.C., or Texas.

Many of us in agriculture try to manage risk through quantification, but we also understand that identifying risks and addressing them is often more of an art than a science. Many of the most

insidious risks to the CaHSR program relate to human relationships expressed through politics, public relations, and community interaction. When the California High-Speed Rail Authority unexpectedly obtained additional federal funding to extend its First Construction Segment in December 2010 and then hastily sent its representatives to wander our farm properties and show condescension to our communities, our emotional responses negated any sort of quantitative risk management program that California High-Speed Rail Authority could devise.

For example, the 2014 Business Plan reports that one way the California High-Speed Rail Authority is responding to Financing and Funding Risk is by lobbying for Congressional reauthorization of the Passenger Rail and Investment Improvement Act of 2008 and the Moving Ahead for Progress in the 21st Century Act. Trying to quantify risk for passage of legislation is a perilous task – in fact, it's futile.

Regarding risk management concerning Right of Way and Property Acquisition, we don't believe a computer model can quantify someone's love for a fifth-generation family farm. Others may believe that every person has a price, and that price can be quantified.

Overview of Key Risk Areas

The Business Plan identifies a few key potential areas of risk, some of which state law requires the 2014 Business Plan to address:

- Capital Appreciation and Replacement Costs
- Environmental Review and Approval
- Financing and Funding
- Litigation
- Operations and Maintenance Costs
- Quality Management
- Safety and Security (for some reason incorporated in the description of Quality Management)
- Railroad Agreements
- Ridership and Revenue
- Right of Way (and Property Acquisition)
- Staffing and Organizational Structure
- Stakeholder Support
- Third-Party Agreements (in particular, with utilities)
- Engineering, Planning/Permits, Procurement, Scheduling (mentioned in a list, in passing)

Very little is said about these potential risks. We address them in much greater detail, below, starting with the risks that state law requires the Business Plan to address and then remarking on additional risks identified by the California High-Speed Rail Authority and others.

Finances

We assert that inadequate legislative (or other) funding for California High-Speed Rail Authority from 2000 to 2008 was the primary reason for the “legacy issues” that are likely to prevent construction of any part of the High-Speed Train System. This underfunded, weak state agency

was incapable of discouraging key legislators from inserting foolhardy provisions and promises into the language of Proposition 1A as a political strategy to win legislative approval and then a public vote. As a result, the California High-Speed Rail Authority now must fulfill outlandish legal requirements such as a \$45 billion dedicated high-speed rail complete statewide system.

Cap and Trade Allowances (Taxes)

In his 2014-15 state budget, Governor Brown has proposed spending \$500 million of Cap-and-Trade auction proceeds on California High-Speed Rail and another \$50 million of Cap-and-Trade auction proceeds on Caltrans intercity rail “connectivity” projects. This was not a surprise.

The California High-Speed Rail Program Revised 2012 Business Plan repeatedly cites Cap-and-Trade auction proceeds as an option for funding to complete the Initial Operating Section (Madera/Merced to Sylmar/San Fernando Valley/Los Angeles).

Full funding for the IOS is identified. The first construction segment of the IOS will be funded with a mix of Proposition 1A funds and federal funds totaling \$6 billion. The remaining portions of the IOS will be funded using state bonds, federal support, and local funds, and cap and trade funds are available as needed, upon appropriation, as a backstop against federal and local support to complete the IOS.

Notice the Business Plan states Cap-and-Trade funds would be used to “complete the IOS” but are not designated for the First Construction Segment. This may indicate an awareness that after track is laid for the First Construction Segment by 2018, that segment will either be dormant until 2022 (with the exception of serving as a test track for prototype high-speed rail trainsets) or serve as an improved rail line for the Amtrak California San Joaquin lines. If Amtrak California adopts the now-ordered Charger diesel locomotives for use on the San Joaquin lines, greenhouse gas emissions might be reduced, but this might be offset by more frequent runs if faster times and greater publicity increase patronage of the San Joaquins.

On May 14, 2013, the California Air Resources Board (CARB) released its “Cap-and-Trade Auction Proceeds Investment Plan: Fiscal Years 2013-14 through 2015-16.” This plan is subtly favorable toward spending Cap-and-Trade auction proceeds on high-speed rail and connectivity projects:

...Other actions identified in the 2008 Scoping Plan will focus primarily on post-2020 GHG reductions, such as further development of the statewide rail modernization program, which will better integrate existing passenger rail and transit service with the future high-speed rail system, and act as an additional catalyst for transit-oriented and sustainable communities’ development.

The State must look to invest new funding in rail modernization, including expanded transit, passenger rail, and high-speed rail service...

In its February 2014 report “The 2014-15 Budget: Cap-and-Trade Auction Revenue Expenditure Plan,” the California Legislative Analyst’s Office (LAO) described Governor Brown’s \$250 million Cap-and-Trade proposal for California High-Speed Rail

However, the administration is proposing that beginning in 2015-16, 33 percent of all GGRF revenues be continuously appropriated to the High-Speed Rail Authority (HSRA) for the state’s high-speed rail project. These funds would support the construction of the project’s Initial Operating Segment (IOS), which is estimated to cost \$31 billion and be completed by 2022. At this time, the administration has not provided an estimate of projected cap-and-trade auction revenues; thus, it is unclear how much funding would go to high-speed rail in 2015-16 and beyond...

The Governor’s budget requests \$250 million in 2014-15 to support construction of the high-speed rail system. Specifically, this includes (1) \$58.6 million for environmental planning and permitting for the first phase of the project (which would extend from San Francisco to Anaheim) and (2) \$191.4 million to purchase land and partially support construction for the Initial Construction Segment (which would extend 130 miles from Madera to Bakersfield). According to the administration, the availability of a high-speed rail system in California will reduce vehicle miles traveled in cars, as well as planes, thereby reducing total GHG emissions. As described above, the administration also proposes budget trailer legislation to continuously appropriate 33 percent of GGRF revenues to HSRA beginning in 2015-16.

The report was lukewarm about using Cap and Trade auction proceeds for High-Speed Rail:

Some Outcomes Would Depend on Changes in Behavior. In addition, the amount of GHG reductions for some proposed programs would depend on changes in behavior that are difficult to predict. For example, the administration assumes that the high-speed rail, SGC, and Caltrans proposals would result in some individuals shifting their mode of transportation, resulting in a net reduction in vehicle miles traveled in cars. While such changes might very well occur and could result in net GHG emission reductions, it would be difficult to predict with precision the likely marginal net GHG reduction due to these efforts. This uncertainty increases the risk that the administration’s plan would not achieve its maximum potential emission reductions.

Some Reductions Would Likely Occur Beyond 2020. We also find that some proposed activities would not contribute significant GHG reductions before 2020, which as mentioned above, is the statutory target for reaching 1990 emissions levels. For example, plans for the high-speed rail system indicate that the first phase of the project will not be operational until 2022. Moreover, the construction of the project would actually generate GHG emissions of 30,000 metric tons over the next several years. The HSRA plans to offset these emissions with an urban forestry program that proposes to plant thousands of trees in the Central Valley. We also note that HSRA’s GHG emission estimates for construction do not include emissions associated with the production of construction materials, which suggests that the amount of emissions requiring mitigation could be much higher than currently planned. Therefore, it is possible that the construction of the

IOS may result in a net increase in GHG emissions, even when accounting for proposed offsets.

The report also listed several implementation problems of the Governor's proposed plan to spend Cap-and-Trade auction proceeds. But not all of the concerns about spending Cap and Trade funds on High-Speed Rail are related to pure policy concerns. Politics will also play a role.

At budget subcommittee hearings about spending Cap and Trade funds, lobbyists have lined up to advocate for their organizations and causes to get a share or greater share of these funds. Some environmental groups – in particular the Sierra Club – oppose spending Cap and Trade auction proceeds on California High-Speed Rail.

Will California High-Speed Rail Actually Reduce Greenhouse Gas Emissions?

In the fall of 2010, a post-doctoral Researcher in Civil and Environmental Engineering and a Professor of Civil and Environmental Engineering at the University of California, Berkeley published a report entitled "Life-Cycle Environmental Assessment of California High Speed Rail." This report suggested that claims of major reductions in greenhouse gas emissions because of California High-Speed Rail might be unfounded.

Taking life-cycle and ridership uncertainty into account can yield drastically different estimates about the energy efficiency of different transportation modes...The life-cycle inventory for high-speed rail shows that accounting for infrastructure construction and electricity production adds 40 percent to the energy consumed by the trains' operations alone (see Figure 1). Greenhouse gas emissions increase by about 15 percent, primarily because of the concrete used in construction—half a kilogram of CO₂ is emitted for every kilogram of cement produced. Infrastructure construction will emit roughly 490 million metric tons of greenhouse gases, which are approximately 2 percent of California's current annual emissions. As was the case with the life-cycle inventory of conventional modes, the majority of emissions are released not from the electricity needed to propel the high-speed trains, but from the indirect and supply-chain components.

We can estimate the energy payback period for high-speed rail by comparing the energy used in its construction with the resulting energy savings in its operation, but only by making assumptions about ridership. The payback period evaluates the upfront energy or emission investment in deploying high-speed rail infrastructure against the potential reductions over time. The California High-Speed Rail Authority provides a ridership estimate, but as we noted above, ridership is uncertain, and for an entirely new mode it is very uncertain. Thus California high-speed rail warrants ridership evaluation for both high- and low-ridership scenarios. We consider high ridership as strong adoption of high-speed rail at the expense of auto and air travel, mid-level ridership as moderate adoption of high-speed rail, and low ridership as poor adoption of high-speed rail where travelers favor auto and air. For high ridership scenarios, the energy payback period on the initial investment is eight years, for mid-level ridership 30 years, and never for low ridership (when under-used high-speed rail is coupled with increased utilization of auto and air

travel). For greenhouse gas emissions the payback period for rail is six years for high ridership, 70 years for mid-level ridership, and never for low ridership...Thus the California high-speed rail system can reduce greenhouse gas emissions, but may do so only over a very long period, and will do so in exchange for other air emissions.

The Claim of Zero-Net Emissions in Construction of California High-Speed Rail

As required in Senate Bill 1029 (2012), the California High-Speed Rail Authority produced a report in June 2013 entitled *Contribution of the High-Speed Rail Program to Reducing California's Greenhouse Gas Emission Levels*. It made these claims:

- “using methodologies consistent with state practice, an estimated 4 to 8 million metric tons of CO₂ saved by 2030, as if the state turned off a coal fired power plant”
- “Greenhouse gas savings from the first year of operations increasing to over 1 million tons of CO₂ per year within 10 years”
- “Result in net GHG emissions diversions that, conservatively, are the equivalent of the GHG emissions created from the electricity used in 22,440 houses, or removing 31,000 passenger vehicles from the road”

It also stated a commitment to “100% renewable energy during operations,” which presumably means that solar, wind, and geothermal energy will power the Initial Operating Segment between Merced/Madera and Sylmar/Fernando Valley/Los Angeles when it starts revenue service in 2022.

For the Construction Package 1 contract awarded to Tutor Perini/Zachry/Parsons, a Joint Venture, the report portrays civil construction from Madera to Fresno as “zero net greenhouse gas emissions.” This apparently means that GHG emissions from construction equipment, material production and transportation (for example, cement), and worker travel will be fully offset by emissions reductions resulting from new school buses for San Joaquin Valley districts and new irrigation pumps for farmers. (For some reason the report did not mention new tractors for farmers.) In addition, the California High-Speed Rail Authority requires contractors to “recycle 100 percent of concrete and steel from construction and demolition activities, and to divert 75 percent of non-hazardous waste from landfills” as a way to reduce greenhouse gases.

Some might claim these proposals sound farcical. Critics of California High-Speed Rail have honed in on the Authority’s claim that a massive tree planting program will contribute to zero net greenhouse gas emissions under Construction Package 1. The CEO of the California High-Speed Rail Authority informed an Assembly budget committee on April 3 that 5,000 trees would be planted. Here’s the description of the tree program in the report to the legislature:

The Authority is committed to achieving zero net GHG emissions related to construction activities. While construction activities will generate GHG emissions, when coupled with the Authority’s strategy, the result is zero net direct construction GHG emissions. For example, the estimated GHG emissions associated with construction activities, materials deliveries, and worker travel for Construction Package 1 (CP1), the first 29-mile construction segment of the high speed-rail system from Madera to Fresno, of 30,107

metric tons of CO₂e, from 2013 to 2018, would be offset at the start of construction through a tree planting program that the Authority is developing. This multi-faceted forestry program will introduce enough trees into the region where construction is taking place to honor the Authority's commitment to offset the direct GHG emissions associated with construction. The program is planned to include urban forestry and tree planting, through regional tree foundations, which compounds GHG emissions reductions by providing shade and other amenities with tangible local economic benefits. The program could also include providing shade trees to interested home owners

It's unclear what the source of funds will be for this program, but it seems to be questionable public policy to borrow money via bond sales, use it to buy trees for interested home owners, and then pay the money back with interest over 35 years. Perhaps Cap and Trade funds will be used.

As another example of reducing greenhouse gas emissions, the California High-Speed Rail Authority report also touts "an agreement with the California Department of Conservation (DOC) and the Madera and Merced County Farm Bureaus to assist in obtaining farmland conservation easements from willing sellers located near the high-speed rail alignment between Merced and Bakersfield." This agreement is the result of a settlement of an environmental lawsuit against the California High-Speed Rail Authority. Less than a month after the California High-Speed Rail Authority released its Greenhouse Gas report citing this agreement, an article in the Fresno Bee reported that the California High-Speed Rail Authority had failed to make the \$5 million payment required in the settlement to establish the program.

Are Cap-and-Trade Allowances Likely to Survive a Court Challenge?

In April 2013, businesses and organizations filed lawsuits (*Morning Star Packing Co., et al. v. California Air Resources Board, et al.*, Case No. 34-2013-80001464 and *California Chamber of Commerce, et al. v. California Air Resources Board, et al.*, Case No. 34-2012-80001313) in Sacramento County Superior Court contending that the revenue-generating auction provisions of the California Air Resources Board Cap and Trade regulations are unconstitutional, not authorized under state law, and illegal taxes under Proposition 13 and Proposition 26.

On August 28, 2013, Sacramento County Superior Court judge Timothy M. Frawley sided with the California Air Resources Board, although he noted that "On balance, the court agrees that the charges are more like traditional regulatory fees than taxes, but it is a close question. Contrary to what ARB argues, the charges have some traditional attributes of a tax." He also ruled that "Although AB 32 does not explicitly authorize the sale of allowances, it specifically delegates to ARB the discretion to adopt a cap-and-trade program and to "design" a system of distribution of emissions could be freely distributed to covered entities or to non-regulated entities, who could then convert the value of the allowances into cash by selling them in the allowance market." The plaintiffs have appealed the decision, and the cases are likely to end up at the California Supreme Court.

Patronage

In its 2014 Draft Business Plan, the California High-Speed Rail Authority projects 5.8 million passengers per year on the 300-mile length of track connecting Los Angeles and Merced via

Palmdale, Bakersfield, Hanford, and Fresno and projects \$592 million as a medium scenario in 2012 dollars. Meanwhile, the 450-mile Amtrak line connecting Boston and Washington DC via New York City, Philadelphia and Baltimore carries 3.5 million passengers per year and projects \$543 million in revenue.

Right-Of-Way Acquisition

The Grant/Cooperation agreement with FRA for matching funds states the following regarding property acquisition:

The Grantee may not obligate or expend any funds (Federal, state, or private) to acquire any real property for the Project, including rights-of-way, unless property acquisition is specifically authorized in the Statement of Work incorporated as an attachment to this Agreement and unless the required National Environmental Policy Act (NEPA) documentation for the associated acquisition step is by then completed as determined in writing by FRA and any required California Environmental Quality Act (CEQA) documentation for the associated acquisition step is by then completed as determined by the Grantee.

The State Public Works Board says the following about right of way for trains:

Site selection for a rail alignment differs from traditional single parcel Board requests. Parcels required rail alignments involve several miles comprising a longitudinal corridor, rather than a single, specific parcel where other location options may be considered. Because of the type of infrastructure for this project it is not possible to simply reject a parcel and move to the right or left. For instance, a high-speed train traveling at 200+ miles per hour requires 4 to 5 miles to perform a 90-degree turn. The alignment, as determined through the environmental processes, determines the sites that must be acquired. In addition, many of the sites selected reflect a need for road realignments and grade crossings necessary to ensure the safety of the train system.

In 2013, Gov. Brown signed into law Assembly Bill 481, which elaborates on property acquisition for California High-Speed Rail. It established procedures to allow the Authority to sell or exchange property obtained for high-speed rail purposes that it no longer needs for those purposes. It allows the Authority to lease its land to public agencies or private entities or individuals, with awards of leases to private entities or individuals based on competitive bidding. And the bill created the High-Speed Rail Property Fund to deposit revenue obtained from the sale, lease, or grant of property. The legislature is authorized to appropriate money from this fund for development, improvement, and maintenance of the high-speed rail system.

The State Public Works Board is responsible for considering and approving all acquisitions of the California High-Speed Rail Authority. At its November 6, 2012 meeting, the State Public Works Board adopted a resolution approving a form of acquisition agreement and the delegation of authority to execute certain contracts for the acquisition of property for the California High Speed Rail Authority. This is meant to make land acquisition faster and less cumbersome. Staff reported that “the Authority anticipates needing to acquire approximately 1,100 properties over the next three years and thousands of additional properties as the system extends.”

SB 1029 appropriated \$5.850 billion (\$2.609 billion High Speed Passenger Train Fund and \$3.241 billion federal funds) for acquisition of approximately 1,100 parcels and the construction of the 130-mile IOS-1.

On January 11, 2013, June 14, 2013, July 12, 2013, and November 8, 2013, the State Public Works Board approved site selection for a combined 401 parcels that would provide a corridor extending approximately 24 miles from Avenue 17 east of the City of Madera to Santa Clara Street in the City of Fresno. Parcels were added based on legal settlements and realignment of Golden State Boulevard in Fresno. A few other parcels have been added for administrative settlements.

On December 13, 2013, the State Public Works Board authorized the use of eminent domain to acquire approximately 2.49 acres located at 2222 G Street in the City of Fresno. This property is needed to construct a bore pit as part of the initial construction of the proposed “Roeding trench” which will provide a High Speed Rail alignment that goes underneath an elevated segment of State Route 180. Excavation of the pit will allow the trench to be bored from the property being acquired.

Environmental Clearances

In 2012, Assemblyman Mike Feuer, D-West Hollywood, introduced a bill to provide expedited environmental review for “public rail transit projects.” It caused concern among groups worried about the financial and environmental effects of the massive high-speed rail project.

A June 21, 2012 article in the *Los Angeles Times* – “Gov. Jerry Brown to Scrap Environmental Exception for Bullet Train” – revealed the challenges facing the California High-Speed Rail Authority as it attempts to comply with CEQA and NEPA:

After encountering criticism from environmental groups, Gov. Jerry Brown signaled Wednesday that he plans to withdraw his controversial proposal to protect the California bullet train project from injunctions sought by environmental lawsuits.

Brown's staff told key environmental groups that he would no longer include modifications to the California Environmental Quality Act in a package of legislation this month asking for \$6 billion to start construction of the high-speed rail project...

Dan Richard, chairman of the California High-Speed Rail Authority, had first raised the possibility of some legal protections from lawsuits in a Senate hearing, saying he would rather be able to respond to future lawsuits by mitigating problems than having his project stopped with an injunction.

Brown endorsed that idea soon after, sending proposed language to the Legislature that set a high bar for environmental suits and making the revisions retroactive to the start of this year. That measure could have affected the one suit that has already been filed by the farm bureaus of Merced and Madera counties, Madera County and others. The lawsuit

contends that the environmental review of the project's segment from Merced to Fresno was inadequate.

Both defenders and critics of the California Environmental Quality Act (CEQA) recognize how public and private parties can exploit this law for purposes other than pure environmental protection. Opponents of California High-Speed Rail have already attempted to use the California Environmental Quality Act (CEQA) to stop, hinder, or change the planned project. So far, the California High-Speed Rail Authority has been able to defeat opponents, fend them off to some extent, or reach a settlement with them.

At some point, however, the California High-Speed Rail Authority will encounter a plaintiff in a CEQA challenge that will refuse to terminate its lawsuit against the Authority through a settlement agreement. To date, the Authority has managed to avoid entangling itself in court concerning issues closely related to the content of Final Environmental Impact Reports. But the Authority remains vulnerable to a CEQA lawsuit in which a court will address issues brought up by plaintiffs related to the adequacy of a Final Environmental Impact Report under CEQA. It's naïve to presume this lawsuit will never happen and that the Authority will prevail in court.

Still unanswered is the question of whether the California High-Speed Rail Authority seriously considered alternative routes to the Pacheco Pass route that takes the rail system through San Jose and up the Peninsula to San Francisco. Repeatedly, critics of the project ask why the rail is not planned to travel alongside the I-580 corridor through the Livermore Valley and over the Altamont Pass and then alongside I-5 through the Central Valley and then over the grapevine to Los Angeles.

In fact, this question is often asked by members of the public who support the project. If a lawsuit moves forward to probe the deliberation behind the decision to go through the Pacheco Pass and then to Fresno, surely there will be an effort in discovery to sort out the decision-making process and determine motivations.

These reports alerted communities to the distinct possibility that the High-Speed Rail system was going to affect them, but they also frustrated these same communities by not providing details.

Second Tier Environmental Impact Reports – Finalizing Specific Sections of the Route

Draft Merced to Fresno Section Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS)

Final Merced to Fresno Section Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS)

Draft Fresno to Bakersfield Section Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS)

Revised Draft Fresno to Bakersfield Section Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS)

Construction

On September 26, 2013, the federal Surface Transportation Board received a letter from the California High-Speed Rail Authority asking the board to exempt it from requirements for the construction of the rail line between Fresno and Bakersfield. The California High-Speed Rail Authority has not yet approved the final EIR for the Fresno to Bakersfield segment. The Board must consider the environmental effects of the construction proposal before any final approval can be given and before any construction may begin.

Construction Package 1 has 25 miles in the approved Merced to Fresno segment and 4 miles in the not-approved Fresno to Bakersfield segment. If the California High-Speed Rail Authority can't conclude environmental review of the Fresno to Bakersfield segment by July 12, 2014, the Authority has to renegotiate the contract for Construction Package 1 with Tutor Perini/Zachry/Parsons.

This is why the California High-Speed Rail Authority quietly asked the federal Surface Transportation Board for an environmental exemption, which the board refused to grant while it extended the time period for comment until February 14, 2014. The September 26, 2013 Petition for Exemption from the California High-Speed Rail Authority to the Surface Transportation Board states the following:

The Authority has entered into a design-build contract to construct a 29-mile segment of the HST System, comprised or approximately 5 miles of track and facilities within the boundaries of the Fresno to Bakersfield HST Section in the vicinity of Fresno and approximately 24 miles of track and facilities covered by the exemption granted in the Merced to Fresno Decision. The Authority's design-build contract requires the Authority to give the contractor separate notices to proceed with construction of the 5-mile and 24-mile segments. The notice to proceed for the 5 miles of track and facilities must be issued by July 12, 2014. If the Authority cannot issue the notice on the 5-mile segment by July 12th, it will be removed from the contract and the Authority will need to re-negotiate the price for the construction of the 24-mile segment and the price and timetable for the 5-mile segment. Since the construction contract does not contain a separate price for the 5-mile and 24-mile segments, this could result in a substantial aggregate increase in the cost of construction of the two segments. There is a possibility that the Board will have a vacancy as of January 1, 2014. Given the Authority's July 12th notice to proceed deadline, the possibility of a Board vacancy is of concern to the Authority. However, the Board has authority to grant conditional approval of construction exemptions. Although the Board does not do so absent compelling circumstances, there would be compelling circumstances in this case because conditional approval would avoid circumstances which could require the Authority to pay a higher price for the construction of the initial segment of the HST System. Accordingly, if a Board vacancy becomes imminent, the Authority respectfully requests that the Board conditionally grant this Petition subject to the completion of the environmental review process, and issue a decision effective by December 31, 2013.

Vice Chairman Begeman concurred with the December 2013 decision of the Surface Transportation Board to deny the request for an exemption, and he added this comment:

I support the Board's decision to reject the California High-Speed Rail Authority's request for a decision on the transportation aspects of the project before the environmental review of the project is completed. The Board should not approve any segment of this enormous public works project unless it first carries out a comprehensive analysis of the segment at issue, including its financial fitness.

Earlier this year, the Board rushed to meet the Authority's request for expedited action on the first segment of the project. Unfortunately, in order to do so and over my objections, the Board chose to ignore key components of the project's viability—its projected costs and funding. The Board reached a decision without looking at the project's financial fitness. For this and other reasons that I explained at the time, I could not fully support the Board's decision.

Today's decision acknowledges the growing controversy regarding California's bond funding process. Considerable federal taxpayers' dollars are already at stake and the recent state court decisions may very likely impact construction timing and costs. Just as we need to consider the environmental aspects along with the transportation merits of this project before granting further approval, we should also understand its funding aspects, and then make a decision on a full record. The Authority's current petition fails to include any details about the project's finances. That void needs to be corrected before the Board acts further.

Other – Travel Time

Proposition 1A requires a High-Speed Train System capable of achieving a 2 hour 40 minute travel time from San Francisco to Union Station in Los Angeles and a 30 minute travel time from San Francisco to San Jose. With the commitment for a complete statewide dedicated High-Speed Train System at a cost of \$45 billion, commitments to travel time are among the most damaging of the Proposition 1A "legacy issues."

The California Official Voter Information Guide for the November 5, 2008 election actually included this outlandish claim in the Argument in Favor of Proposition 1A:

Proposition 1A will save time and money. Travel from Los Angeles to San Francisco in about 2½ hours for about \$50 a person.

California Streets and Highway Code Section 2704.09 (implemented by voters as Proposition 1A) states that "The high-speed train system to be constructed pursuant to this chapter shall be designed to achieve the following characteristics: (a) Electric trains that are capable of sustained maximum revenue operating speeds of no less than 200 miles per hour. (b) Maximum nonstop service travel times for each corridor that shall not exceed the following: (1) San Francisco-Los Angeles Union Station: **two hours, 40 minutes**. (2) Oakland-Los Angeles Union Station: two hours, 40 minutes. (3) San Francisco-San Jose: **30 minutes...**"

Questions remain concerning whether or not the proposed blended plan defined in the Draft 2014 Business Plan would allow a passenger to travel from San Francisco to Union Station in Los Angeles in the 2 hours 40 minutes time period required under state law.

- At what speeds, on what grades, will the system be able to run through the Transverse Ranges between Bakersfield and Los Angeles, including the Tehachapi Mountains and the San Gabriel Mountains?
- At what speeds, on what grades, will the system be able to run through the Pacheco Pass between the Central Valley and Gilroy?
- At what speeds, on what grades, will the system be able to run on the Peninsula, south of San Francisco?
- At what speeds, on what degrees of curve, will the system be able to run in the Central Valley?

A graph purporting to show the capability of the system to fulfill the travel time requirements of state law shows the train never dropping far below 150 mph in the mountains north of Los Angeles. An email obtained from the California High-Speed Rail Authority states: “I have an answer on your request for some documented proof of the assertions the engineers made to Dan Richard. The answer is that no document exists. These were verbal assertions based on skill, experience, and optimism and so Dan Richard went with the expertise of the engineers offering these assertions.”

Other – Seismic Issues

Informal references of California High-Speed Rail Authority officials concerning tunnels through some of the mountains north of Los Angeles do not address how seismic faults will compromise the viability or safety of such a plan. Bakersfield-to-Los Angeles California High-Speed Train Program EIR/EIS High-Speed Train Screening Evaluation refers to “seismic chambers” for fault crossings:

The cost of a seismic chamber was provided for each tunnel crossing of a known fault. For “major” fault crossings, including the Garlock Fault and the San Andreas Fault, a unit cost of \$50 million was used for the seismic chamber required for the tunnel pair. Seismic chambers at lesser faults, including the White Wolf/Wheeler Ridge Fault and the Santa Susana Fault near Sylmar, were assigned a unit cost of \$25 million.

Other – Utility Relocation

Public Utilities Code 185000 - 185511 states that the California High-Speed Rail Authority has to pay reasonable and necessary cost for utilities to remove and relocate of any pole, pole line, pipe, pipeline, conduit, cable, aqueduct, or other structure or appurtenance in the right-of-way of any high-speed rail property to other property outside or inside the high-speed rail right-of-way. This includes water and telephone, sewers, fire hydrants, street lights. If the Authority advances the cost of removal or relocation, it is the duty of the utility to move its facilities as soon as

reasonably possible so as not to delay high-speed rail construction. If California High-Speed Rail Authority and a utility establishes a contract to apportion the obligations and costs, either party may sue over disagreements within three years.

Other – Central Valley Land Subsidence

The U.S. Geological Survey, in cooperation with the U.S. Bureau of Reclamation and the San Luis and Delta-Mendota Water Authority, assessed land subsidence from 2003 to 2010 in the vicinity of the Delta-Mendota Canal as part of an effort to minimize future subsidence-related damages to the canal. According to the resulting final report, decreased surface-water availability encouraged increasing pumping, resulting in dropping groundwater levels, aquifer-system compaction, and renewed land subsidence. A proposal to move the Chowchilla Wye to the west would locate it in this area of significant subsidence, known locally as the Red Top. The Merced Fresno EIR said the subsidence was an insignificant issue, but this conclusion dumbfounds local residents.

Other – Federal Buy America Requirements

As a condition of its matching grants, the California High-Speed Rail Authority is required to comply with the Buy America provisions set forth in 49 U.S.C. §24405(a) for the Project requiring the use of steel, iron, and manufactured goods produced in the United States. The Business Plan needs to outline the difficulties and costs of fulfilling this requirement and its plans to seek waivers.

Other - Security

We have yet to see the California High-Speed Rail Authority consider the costs of security, including employment for passenger screening at train stations and system surveillance, as well as infrastructure construction and maintenance to protect the system from terrorism, criminality, suicides, pranks, and human error.

Future California governors and legislatures may be embroiled in constant controversies over the cost and effectiveness of security measures for this 800-mile rail system.

Here is a record of a written question-and answer dialogue between Kings County and the California High-Speed Rail Authority on security for the high-speed train system:

SECURITY ISSUES:

Kings County: Who will be responsible for Public Safety relating to the project?

California High-Speed Rail Authority: "Although it has not been formally decided who will be responsible for public safety during construction and operation, we anticipate that those decisions may fall in line with similar existing arrangements."

Kings County: WHAT DOES THIS MEAN?

California High-Speed Rail Authority: "A Threat and vulnerability analysis will be developed"

Kings County: *WHEN? DOES IT EXIST NOW?*

Kings County: *What about security against terrorism?*

California High-Speed Rail Authority: "the Federal Railroad Authority has determined the Transportation Security Administration "has jurisdiction over all security matters including HST" and has a "dedicated deputy general manager assigned to the project ... but TSA currently has no established regulations ... but is working to develop ..."

Kings County: *WHEN? DOES IT EXIST NOW AS YOU BEGIN CONSTRUCTION?*

Kings County: *What is your plan to police the project?*

California High-Speed Rail Authority: "... the Authority is in the process of evaluating types of policing methods and services that potentially could be employed ..."

Kings County: *HAS THE AUTHORITY FIGURED THIS OUT? WHAT IS THE PLAN?*

Other- Railroad Cooperation

Page 70-71 of the California High-Speed Rail Authority 2014 Draft Business Plan vaguely acknowledges a potential risk regarding agreements:

Given the interface with existing railroad right-of-way, there is a need for agreement with the railroad companies. At this time, there is not a master agreement in place between the Authority and Burlington Northern Santa Fe (BNSF) or between the Authority and Union Pacific Railroad (UPRR) to inform design and construction of modifications to UPRR or BNSF facilities and each railroad's right-of-way and operational requirements. There is also risk related to fulfilling the obligations of the agreements once they are in place. In addition, there may be significant additional costs to the program associated with any disruptions to service experienced by BNSF and UPRR during construction. If agreements cannot be reached with the railroad companies, then design work in progress or already completed may be affected, leading to cost increases or schedule delays that could become significant if the delay in reaching agreements persists. In addition, the terms of these agreements and constraints imposed by the railroad's normal operations may negatively impact (implicit) productivity assumptions made during the development of the program's schedule and cost estimate, as well as the eventual contractor's possible means and methods.

According to the FRA, California High-Speed Rail Authority must enter into and abide by, or commit to enter into and abide by, a written agreement, in form and content satisfactory to FRA, with any railroad owning property on which the Project is to be undertaken, in accordance with

49 U.S.C. 24405(c)(1) and section 4.2.6 of the High Speed Intercity Passenger Rail (HSIPR) Program Interim Guidance published in the Federal Register on July 1, 2010 (75 FR 38344). This written agreement shall provide for the following:

- compensation for use
- assurance regarding the adequacy of infrastructure capacity
- a commitment to keeping railroad collective bargaining agreements in full force and effect
- compliance with liability requirements consistent with 49 U.S.C. 28103
- not enter into or agree to any substantive changes to the FRA approved written agreement with the railroad on which the Project is undertaken without FRA's prior written consent
- not obligate or expend any funds (federal, state or private) for final design and/or construction of the Project, or commence any part of the final design and/or construction for the Project, or any component of the Project, without receiving FRA's prior written approval of the executed railroad agreement fulfilling these requirements

According to the California High-Speed Rail Authority 2014 Draft Business Plan, the Authority has executed agreements (apparently, Memoranda of Understanding (MOUs) and Cooperative Agreements) with the following railroads and operating agencies:

Burlington Northern Santa Fe: Agreement for Information (Business Plan claims there is a memorandum of understanding)
Orange County Transportation Authority Cooperative Agreement (reimbursement)
Peninsula Corridor Joint Powers Board Cooperative Agreement
Transbay Joint Powers Authority Agreement
Authority/Peninsula Corridor Joint Powers Board (Caltrain) MOU
Orange County Transportation Authority MOU
Union Pacific Railroad (UPRR): reimbursement, memorandum of understanding, indemnification/insurance
Southern California Regional Rail Authority: reimbursement
Capitol Corridor Joint Power Authority: reimbursement
San Joaquin Regional Rail Commission: reimbursement

It is negotiating these agreements:

Burlington Northern Santa Fe (BNSF): reimbursement and overpass
Union Pacific Railroad (UPRR): master engineering/construction/maintenance and purchase and sale agreement (to include all UPRR parcels needed for Construction Package 1)

Other – Labor Agreements

Collective bargaining rights of railroad employees are protected not by the National Labor Relations Act (NLRA) but by special federal labor laws such as the Railway Labor Act and other worker protection arrangements. As a recipient of FRA grant assistance, the California High-Speed Rail Authority must comply with these laws. The State of California could also establish a special labor law section for railroad employees, as it does with agricultural workers.

Other - Internal Organizational Incompetence and Financial Mismanagement

Observers and analysts of California High-Speed Rail Authority internal planning, management, and operations say they see improvements. The California High-Speed Rail Authority continually claims its internal operations are improving. Here are sources related to evaluations of California High-Speed Rail Authority performance:

California Office of the Inspector General

Final Review Report – Review of the California High Speed Rail Authority - October 27, 2010

Institute of Transportation Studies, University of California

Review of “Bay Area/California High-Speed Rail Ridership and Revenue Forecasting Study” – Final Report - June 30, 2010 (prepared at request of California Senate Transportation and Housing Committee)

California State Auditor

Recommendations for the Legislature From Audits Issued During 2012 and 2013	2013-701	January 16, 2014
Recommendations Not Fully Implemented After One Year: The Omnibus Audit Accountability Act of 2006 Status of Recommendations	2013-041	January 14, 2014
Recommendations Not Fully Implemented After One Year: The Omnibus Audit Accountability Act of 2006 Status of Recommendations	2012-041	January 15, 2013
Recommendations for Legislative Consideration From Audits Issued During 2011 and 2012	2012-701	December 18, 2012
High-Speed Rail Authority Follow-Up: Although the Authority Addressed Some of Our Prior Concerns, Its Funding Situation Has Become Increasingly Risky and the Authority's Weak Oversight Persists / Fact Sheet / Highlights / Summary / Recommendations Report / Original Report	2011-504	January 24, 2012
Recommendations Not Fully Implemented After One Year: The Omnibus Audit Accountability Act of 2006 Fact Sheet	2011-041	January 12, 2012
High-Speed Rail Authority: It Risks Delays or an Incomplete System Because of Inadequate Planning, Weak Oversight, and Lax Contract Management / Fact Sheet / Highlights / Summary / Recommendations Report / Follow-Up Report	2009-106	April 29, 2010

California High Speed Rail Peer Review Group

Final Documents for July 9, 2013 Meeting	Final Risk Management Report
	Update to Peer Review Group of work in progress on Risk Management
	Update to Peer Review Group of work in progress on Ridership and Revenue Modeling and Forecasts
	Memo - Phase 1 Blended Travel Time
	Update to Peer Review Group of work in progress on Train Performance Calculation (TPC) Trip Time Analysis
	Operating & Maintenance Costs - UIC Peer Review
	Operating & Maintenance Costs - UIC Peer Review Response Matrix
	Update to Peer Review Group of work in progress on Operating & Maintenance Cost Modeling and Projections
	Update to Peer Review Group of work in progress on Operating & Maintenance Cost Risk and Monte Carlo Analysis
	Contribution of the High-Speed Rail Program to Reducing California's Greenhouse Gas Emission Levels
	Final Letter dated August 14, 2013 Signed and Scanned
	Field Hearing in Madera, CA titled "Oversight of California High Speed Rail," May 28, 2013.
	Statement of Louis S. Thompson.
	Comments of the Peer Review Group on the Revised 2012 Business Plan
	California High Speed Rail Project Ridership and Revenue Model Sensitivity Tests and Extreme Downside Scenario
	California High Speed Rail Ridership and Revenue Forecast Model Run Summary
	Comments of the Peer Review Group on the Draft 2012 Business Plan (March 21, 2012)
	Peer Review Group's Comments on the 2010 California High Speed Rail Authority Funding Plan (January 3, 2012)
	Memo from Lou Thompson Regarding Additional Information on Ridership and Revenue Forecasts and Excel Workbooks
	Peer Review Group's Comments on the Legislative Analyst's Office Report on the California High Speed Rail Project
	California High Speed Rail Peer Review Group Testimony before the Senate Select Committee on High Speed Rail
	Peer Review Group Letter to Roelef van Ark Regarding Responses to Issues Raised at April 1, 2011 Meeting (May 2, 2011)

Peer Review Group Transmittal Letter to State Legislature Regarding California High Speed Rail Authority's 2010 Business Plan

Summary Comments (Attachment A) (November 18, 2010)

Extensive Comments (Attachment B)

Peer Review Group Response to KPMG Report

Union of International Railways (UIC) Peer Review

[Union of International Railways \(UIC\) Peer Review of Operating & Maintenance Costs of the California High-Speed Rail Project](#)

Legislative Analyst's Office

Analysis of Proposition 1A: Safe, Reliable High-Speed Passenger Train Bond Act	August 29, 2008
The High-Speed Rail Authority	March 17, 2009
2009-10 Budget Analysis Series: High-Speed Rail Authority	
The 2009 High-Speed Rail Business Plan	January 12, 2010
2010-11 Budget Analysis: High-Speed Rail Authority	March 3, 2010
High-Speed Rail Language Issues	June 7, 2010
High-Speed Rail Is at a Critical Juncture / Webcast: High-Speed Rail Is at a Critical Juncture	May 10, 2011
Strategy for Reviewing the Draft 2012 High-Speed Rail Authority Business Plan	November 15, 2011
High-Speed Rail Authority: The Draft 2012 Business Plan and Funding Plan	November 29, 2011
2011 Initiative Analysis: No Train Please Act	January 3, 2012
LAO 2012-13 Budget: Funding Requests for High-Speed Rail	April 17, 2012
Hearing Handout: Oversight of High-Speed Rail Project	February 26, 2013
The 2013-14 Budget: Transportation Proposals	February 2013
Stop the \$100 Billion Dollar High-Speed Rail and Reinvest	February 14, 2014
The 2014-15 Budget: Cap-and-Trade Auction Revenue Expenditure Plan	February 24, 2014

United States Government Accountability Office (GAO)

GAO Report: Positive Train Control - Additional Authorities Could Benefit Implementation	August 2013
GAO Report: Project Estimates Could Be Improved to Better Inform Future Decision	March 2013

Chronology of State Legislative Hearings on California High-Speed Rail

Oversight and Informational Hearings

Date	Committee	Subject	Links to Source Material
December 7, 2007	Senate Transportation and Housing Committee	Oversight Hearings of the California High-Speed Rail Authority in Los Angeles	<p>Agenda: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/12-07-07Agenda.doc</p> <p>Background Report: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/12-07-07BackgroundReportHSRHearing.doc</p> <p>Final Report: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/FINALHSRREPORT.pdf</p>
January 11, 2008	Senate Transportation and Housing Committee	Oversight Hearings of the California High-Speed Rail Authority in Oakland	<p>Agenda: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/01-11-08HearingAGenda.doc</p> <p>Background Report: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/01-11-08BackgroundReportHSRHearing.doc</p> <p>Final Report: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/FINALHSRREPORT.pdf</p>
October 23, 2008	Informational Hearing: Senate Transportation and Housing Committee	Review of the High Speed Rail Authority's Business Plan	<p>Agenda: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/10-23-08Agenda.doc</p> <p>Background: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/10-23-08BackgroundPaper.doc</p>
March 17, 2009	Informational Hearing: Senate Transportation and Housing Committee	Overview of the High-Speed Rail Program in California	<p>Agenda: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/03-17-09Agenda.doc</p> <p>Background: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/03-17-09Background.doc</p>

Date	Committee	Subject	Links to Source Material
January 19, 2010	Joint Legislative Informational Hearing: Senate Transportation and Housing Committee and Senate Budget and Fiscal Review Sub-Committee No. 2 on Resources, Environmental Protection, Energy and Transportation (5 th held)	California High-Speed Rail Authority's 2009 Business Plan	http://www.cc-hsr.org/assets/pdf/Senate-Overview-1-10.pdf (not legislative link)
January 20, 2010	Informational Hearing: Senate Transportation and Housing Committee	The Use of Federal Economic Stimulus Funds For Transportation	Agenda: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/1-20-10Agenda.doc Background: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/01-20-10StimulusBackground.doc
January 21, 2010	Informational Field Hearing: Senate Transportation and Housing Committee and Senate Budget Subcommittee #2 in Palo Alto	High-Speed Rail	Video: http://vimeo.com/9164805
March 23, 2010	Informational Hearing: Senate Transportation and Housing Committee	Status of the Intercity and Commuter Rail Programs Funded by Proposition 1A of 2008 – the Safe, Reliable High-Speed Passenger Train Bond	Agenda: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/3-23-10InformationalAgenda.doc Background: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/03-23-10RailBackground.doc

Date	Committee	Subject	Links to Source Material
May 11, 2010	Informational Hearing: Senate Transportation & Housing Committee	Audit of California High Speed Rail Authority	Outside Transcript: http://www.calhsr.com/wp-content/uploads/2010/05/Senate-Trans-Hearing-on-CHSRA-Audit-May-11-20101.pdf
November 4, 2010	Informational Hearing: Senate Transportation and Housing Committee	A Review of the U.C. Berkeley Institute of Transportation Studies' Assessment of the High-Speed Rail Authority's Ridership Forecast and the State Auditor's Monitoring of the High-Speed Rail Authority	Agenda: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/11-04-10Agenda.doc Background: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/11-04-10Background.doc
July 15, 2011	Senate Agriculture Committee and Senate Transportation and Housing Committee Joint Informational Hearing in Merced	From Food to Rail: High-Speed Rail Impacts on Agriculture	Agenda and Background: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/Joint%20Informational%20Hearing%20for%207-15-11.pdf Transcript: http://sagri.senate.ca.gov/sites/sagri.senate.ca.gov/files/Transcript%20-%20HS%20Rail%207-15-11.pdf
November 29, 2011	Assembly Transportation Committee Oversight Hearing	High-Speed Rail Authority: Draft Business Plan and Funding Plan	Background: http://atrn.assembly.ca.gov/sites/atrn.assembly.ca.gov/files/hearings/11-29-11%20High-Speed%20Rail%202012%20Draft%20Business%20Plan%20Background.pdf

Date	Committee	Subject	Links to Source Material
December 5, 2011	Joint Informational Hearing of the Senate Transportation and Housing Committee and Select Committee on High-Speed Rail	Review of the Draft High-Speed Rail Authority's Business Plan	<p>Agenda: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/12-5-11FinalAgenda.pdf</p> <p>Background: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/12-5-11BackgroundPaper.pdf</p>
December 15, 2011	U.S. House of Representatives Subcommittee on Railroads, Pipelines, and Hazardous Materials of the Committee on Transportation and Infrastructure	Hearing on “California’s High-Speed Rail Plan: Skyrocketing Costs & Project Concerns”	<p>Summary of Subject Matter: http://archives.republicans.transportation.house.gov/Media/file/112th/Railroads/SSM/Briefing%20Memo%20FC%20Hearing%20%20%20%2012-15-11.pdf</p> <p>Agenda, Testimony, Video: http://archives.republicans.transportation.house.gov/hearings/hearingdetail.aspx?NewsID=1475</p>
March 13, 2012	Joint Informational Field Hearing: Senate Budget Subcommittee 2 on Resources, Environmental Protection, Energy and Transportation, and Senate Selection Committee on High Speed Rail in Palo Alto	High-Speed Rail	<p>Agenda: http://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/SUB2/March132012HighSpeedRailAgenda.pdf</p> <p>Video: http://www.senatorsimitian.com/entry/informational_hearing_on_high-speed_rail_part_1/</p>

Date	Committee	Subject	Links to Source Material
May 15, 2012	Joint Informational Hearing: Senate Transportation and Housing Committee Senate Select Committee on High-Speed Rail Senate Budget and Fiscal Review, Subcommittee No. 2 on Resources, Environmental Protection, Energy and Transportation	On the California High-Speed Rail Project: High-Speed Rail Authority Revised 2012 Business Plan	<p>Agenda: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/5-15-12%20Agenda.pdf</p> <p>Report: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/High-Speed%20Rail%20Authority,%20Revised%202012%20Business%20Plan.%20Final%20background%20report.pdf</p>
July 5, 2012	Senate Committee on Budget and Fiscal Review	Informational Hearing on the High-Speed Rail Authority	<p>Agenda: http://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/FullC/07052012SBFRHearingAgenda.pdf</p>

Date	Committee	Subject	Links to Source Material
February 26, 2013	Joint Informational Hearing Senate Transportation and Housing Committee and Senate Budget and Fiscal Review, Subcommittee No. 2 Resources, Environmental Protection, Energy and Transportation; Assembly Transportation Committee	California High-Speed Rail Project: How Should the State Safeguard the Public's Interest?	<p>http://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/SUB2/2262013Sub2JtHearingHighSpeedRail.pdf and http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/02-26-13%20Background%20Paper.pdf</p> <p>Video: http://calchannel.granicus.com/MediaPlayer.php?view_id=7&clip_id=949</p>
March 13, 2013		2013-105: High Speed Rail Authority – Construction Package 1 (Harkey, et al.)	<p>Request for Audit (2013-105): http://laborissuessolutions.com/wp-content/uploads/2013/03/Rejected-Audit-Request-2013-California-High-Speed-Rail-Authority.pdf</p> <p>Agenda: http://legaudit.assembly.ca.gov/sites/legaudit.assembly.ca.gov/files/Agenda%203.13.pdf</p>
April 22, 2013	Assembly Committee on Transportation	AB 528 (Lowenthal) State Rail Plan: High-Speed Rail Authority business plan.	

Date	Committee	Subject	Links to Source Material
May 28, 2013	U.S. House of Representatives Subcommittee on Railroads, Pipelines, and Hazardous Materials of the Committee on Transportation and Infrastructure	Field Hearing on Oversight of California High-Speed Rail in Madera	<p>Summary of Subject Matter: https://transportation.house.gov/uploadedfiles/documents/2013-05-28-railroads_hearing_ssm.pdf</p> <p>Transcript: http://www.gpo.gov/fdsys/pkg/CHRG-113hhrg81259/pdf/CHRG-113hhrg81259.pdf</p>
August 21, 2013	Joint Legislative Audit Committee		<p>Vote Tally: http://legaudit.assembly.ca.gov/sites/legaudit.assessment.ca.gov/files/hearings/Vote%20Tally%2008-23-2013.pdf</p> <p>California High-Speed Rail Authority Response: http://www.hsr.ca.gov/docs/about/legislative_affairs/JLAC_Letter_Audit_Questions_Responses_Final.pdf</p>
January 15, 2014	U.S. House of Representatives Subcommittee on Railroads, Pipelines, and Hazardous Materials of the Committee on Transportation and Infrastructure	Hearing on “A Review of the Challenges Facing California High Speed Rail”	<p>Summary of Subject Matter: http://transportation.house.gov/uploadedfiles/2014-01-15-rail_ssm.pdf</p>
April 2, 2014	Committee on Budget and Fiscal Review: Subcommittee No. 2 on Resources, Environmental Protection, Energy and Transportation	2665 High-Speed Rail Authority	

Budget Committee Hearings

Date	Committee	Subject	Links to Source Material
May 7, 2003	Assembly Budget Subcommittee No. 5 on Transportation and Information Technology	2665 High Speed Rail Authority: Proposed Consolidation with Caltrans	http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/hearings/May-7-2003-Agenda-SpecialTransportationPrograms.pdf
May 5, 2004	Assembly Budget Subcommittee No. 5 on Transportation and Information Technology	2665 High Speed Rail Authority: Department Budget	http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/hearings/5-5-2004-public-cw.pdf
May 19, 2004	Assembly Budget Subcommittee No. 5 on Transportation and Information Technology	2665 High Speed Rail Authority: Department Budget	http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/hearings/05-19-2004-public-cw.pdf
April 20, 2005	Assembly Budget Subcommittee No. 5 on Transportation and Information Technology	2665 High-Speed Rail Authority: BCP – EIR Legal Defense; Next-Tier Program EIR/EIS; Financing Plan	http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/hearings/april%202005%20%202005%20-public-%20jn.pdf
May 3, 2006	Assembly Budget Subcommittee No. 5 on Transportation and Information Technology	2665 High Speed Rail Authority	http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/hearings/may%203%20%202006-public-cw.pdf

Date	Committee	Subject	Links to Source Material
May 17, 2006	Assembly Budget Subcommittee No. 5 on Transportation and Information Technology	2665 High Speed Rail Authority	http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/hearings/may%202017%20%20202006-%20updatedpublic-cw.pdf
April 29, 2009	Assembly Budget Subcommittee No. 5 on Transportation and Information Technology	2665 High-Speed Rail Authority: Issue 1 Federal Stimulus Funding Update; Issue 2 2009-10 Budget Request and Finance Letters	http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/hearings/april%202009%20public-ad.pdf
April 28, 2010	Assembly Budget Subcommittee No. 5 on Transportation and Information Technology	2665 High Speed Rail Authority: Overview of Current Funding and Activities; Staffing Requests; Program Management Contracts; Contracts With Other Governmental Entities; Specialty Contracts	http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/hearings/april%202008%20reco%20-kb.pdf

Date	Committee	Subject	Links to Source Material
February 10, 2011	Assembly Budget Subcommittee No. 3 on Resources and Transportation	2665 High Speed Rail Authority: Trailer Bill Language That Failed Passage in 2010; Supplemental Report Language; Budget reporting Language Vetoed by Governor Schwarzenegger	http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/hearings/Feb%2010.pdf
May 11, 2011	Assembly Budget Subcommittee No. 3 Resources and Transportation	2665 California High Speed Rail Authority: Department Overview; HSRA State Support Costs	http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/hearings/May%2011-DFG-DFA-DPR-HSRA-.pdf

Date	Committee	Subject	Links to Source Material
April 18, 2012	Assembly Budget Subcommittee No. 3 Resources and Transportation	2665 High Speed Rail Authority: Revised 2012 Draft Plan; Spring Fiscal Letter - Construction and Planning; Spring Fiscal Letter - Inter-City Connectivity; Budget Change Proposals for HSRA Operations	http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/Agenda%20Sub%203%20April%2018%20HSRA.pdf
April 10, 2013	Assembly Budget Subcommittee No. 3 Resources and Transportation	2665 High Speed Rail Authority: Overview of High Speed Rail; Governor's Budget Proposals for High Speed Rail	http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/April%2010%20-%20Agenda%20-%20Caltrans-High%20Speed%20Rail-DMV.pdf

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(to April)
For CHSRA Board, 11 March 2014

Suggestions for re-phasing HSR north of Merced (after IOS):

Phase 1: **Merced to San Jose.**

Cross-Platform transfer at San Jose to Caltrain and Capitol Corridor.

Phase 2: **Merced to Sacramento.**

Phase 3: **San Jose to Oakland**

Upgrade UP/Amtrak East Bay Mulford route (Grade separate, fence, multi-track).

Include new transfer station at BART overhead (I-880/7th Street).

Phase 4: **Oakland to Sacramento.**

Upgrade UP/Amtrak line (Grade separate, fence, multi-track).

Phase 5: **San Jose to San Francisco:**

Defer, pending plans to upgrade (grade separate, jointly operate).

Better, safer, more reliable, and far less costly. Stop further subsidy to Caltrain.

From new transfer station ("San Francisco Bay Rail Hub"?) BART trains about every four minutes would reach all four downtown San Francisco BART stations in six to ten minutes.

2008 Prop 1-A was for "The Safe, Reliable High Speed Passenger Train Bond Act..." HSR on Caltrain tracks, with their many commuter station platforms and 43 grade crossings, would be vulnerable to accident and vandalism - NEITHER SAFE NOR RELIABLE. HSR needs a secure, grade-separated trainway.

Robert S. Allen (925) 449-1387

223 Donner Avenue, Livermore, CA 94551-4240

BART Director, District 5, 1974-1988

Retired, SP (now UP) Western Division, Engineering/Operations

(to Agendas)
For CHSRA Board, ~~11 March~~ 2014

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Retired, SP (now UP) Western Division, Engineering/Operations

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Coordinates: 41°11'04.9"N 87°51'11.8"W

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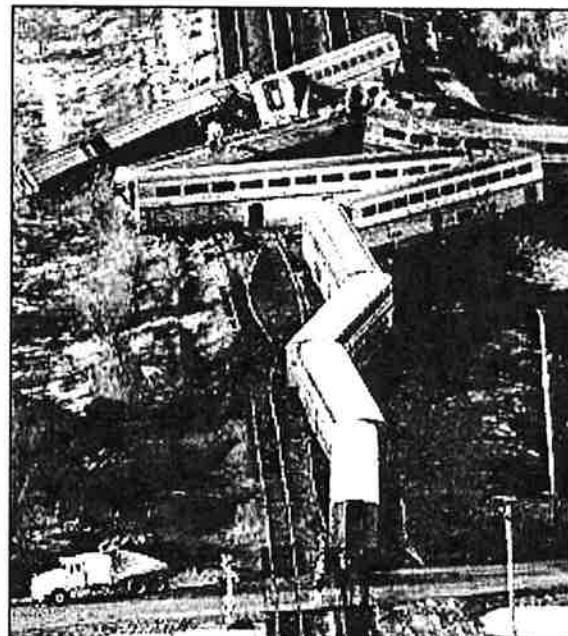
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Accident and investigation

The accident occurred at 9:47 pm Central (local) time on March 15, 1999, in Bourbonnais, Illinois, in the United States on the Illinois Central Railroad. The southbound Amtrak train 59, the *City of New Orleans*, hit a semi truck, loaded with steel, that was blocking a grade crossing. The accident resulted in the deaths of at least 11 of the train's passengers, 122 injuries and over US\$14 million in damages.

Both of the train's locomotives and 11 of the train's 14 passenger cars derailed, the derailed cars hit two of the 10 freight cars on a siding next to the mainline.

1999 Bourbonnais, Illinois, train accident



Details

Date	March 15, 1999
Time	9:47 pm
Location	Bourbonnais, Illinois
Country	United States
Operator	Illinois Central Railroad
Type of incident	Derailment
Cause	Track Circuit (Approach Circuit) failure to detect the Amtrak train immediately.

Statistics

Trains	1
Deaths	11
Injuries	122

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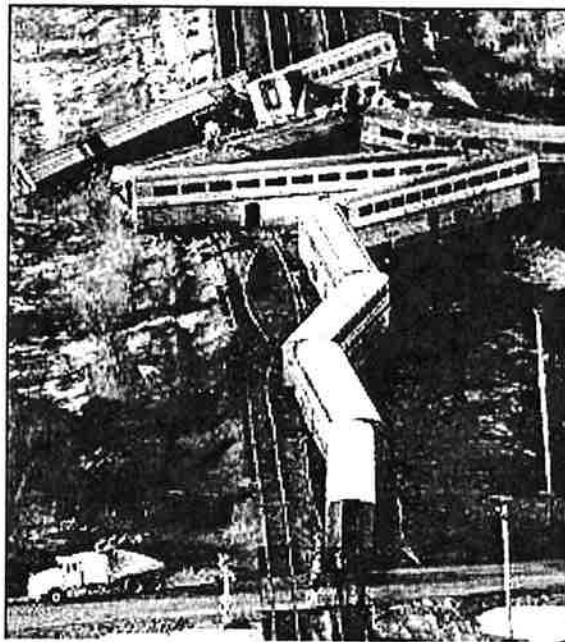
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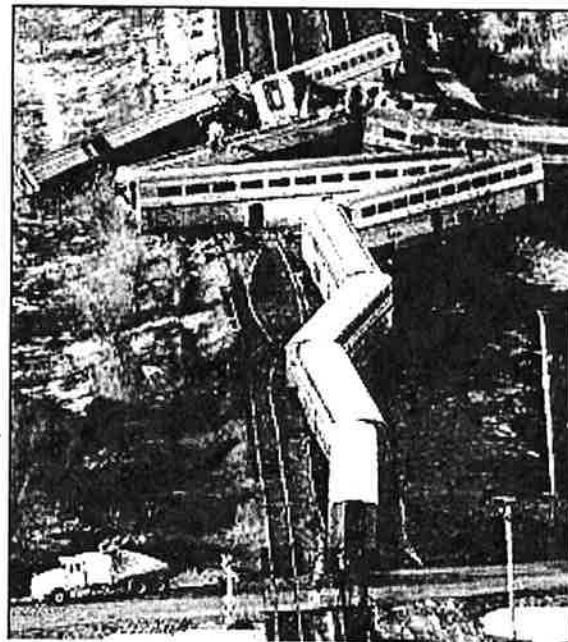
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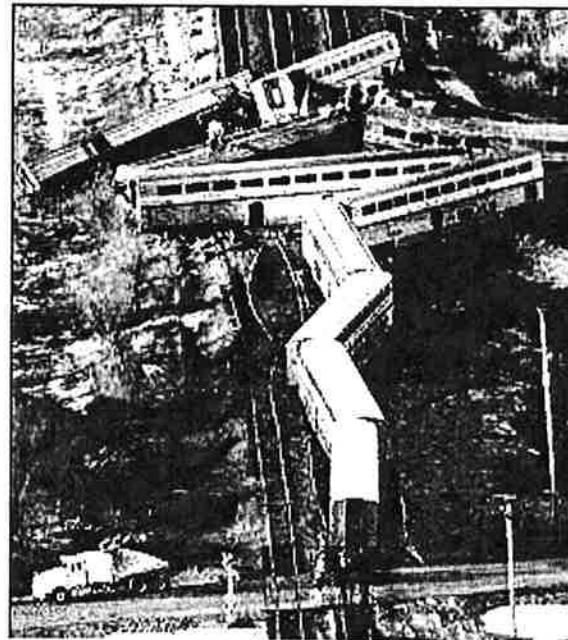
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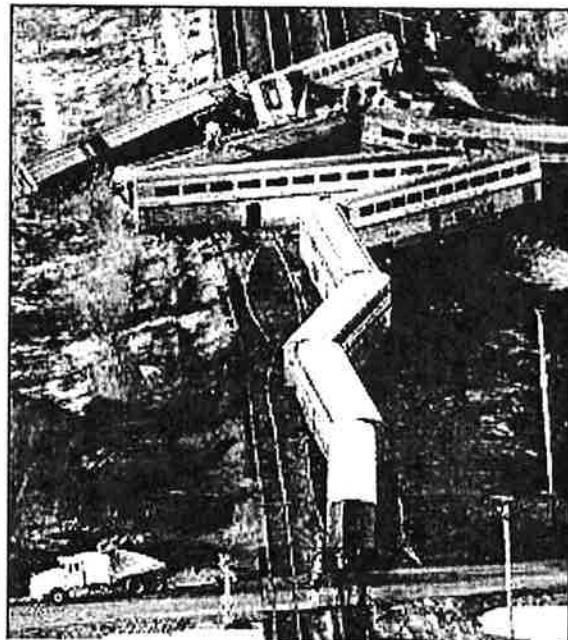
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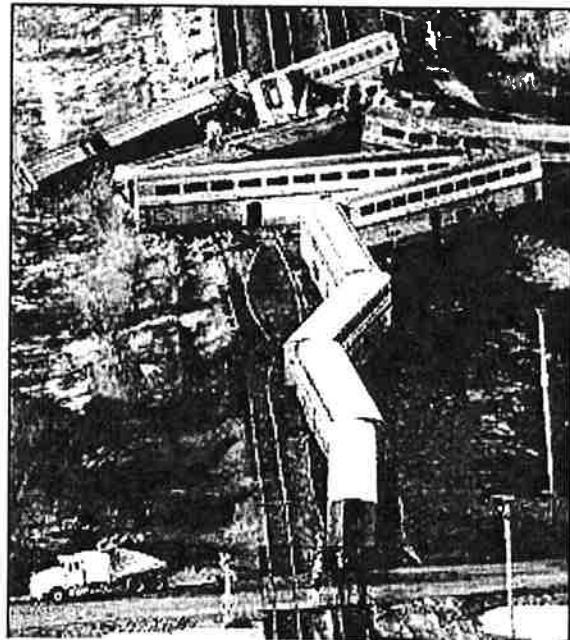
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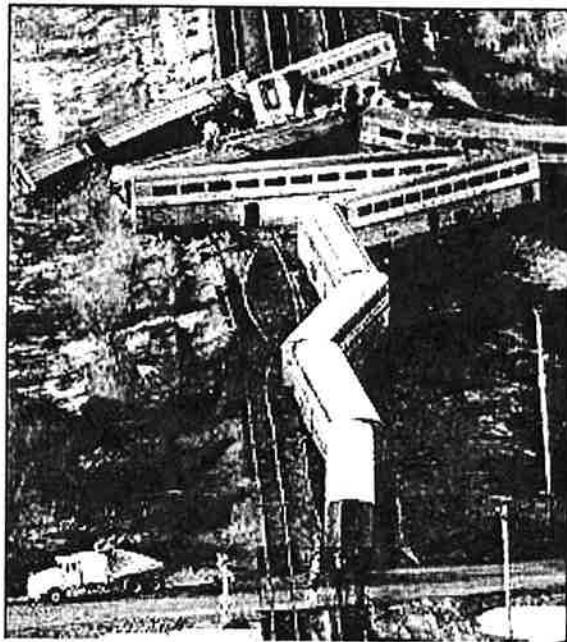
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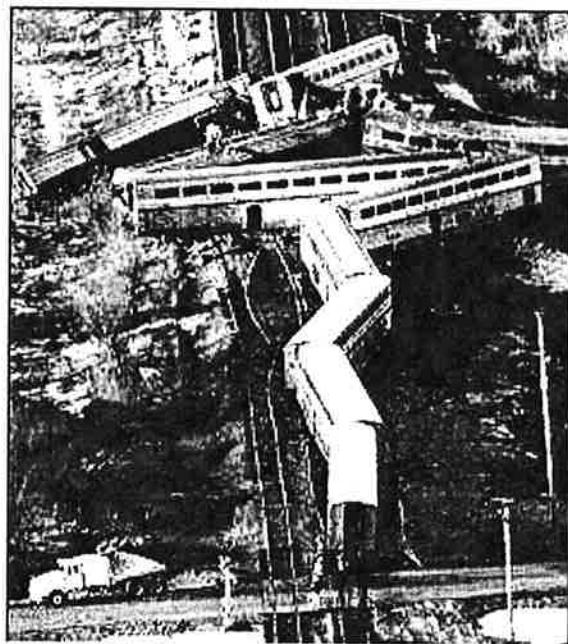
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1999 Bourbonnais, Illinois, train accident



Details

Date	March 15, 1999
Time	9:47 pm
Location	Bourbonnais, Illinois
Country	United States
Operator	Illinois Central Railroad
Type of incident	Derailment
Cause	Track Circuit (Approach Circuit) failure to detect the Amtrak train immediately.

Statistics

Trains	1
Deaths	11
Injuries	122

1999 Bourbonnais, Illinois, train accident

From Wikipedia, the free encyclopedia

The **1999 Bourbonnais, Illinois, train accident** was a train-truck collision between Amtrak's southbound *City of New Orleans* passenger train and a semi truck in the village of Bourbonnais, Illinois, near the city of Kankakee. Almost the entire train derailed, costing 11 lives. A National Transportation Safety Board (NTSB) investigation into the accident attributed the cause to the truck driver trying to beat the train across a grade crossing. However, the Illinois State Police investigation found Track Circuit malfunction as the cause. The NTSB's recommendations from the accident included increased enforcement of grade crossing signals, the installation of event recorders at all new or improved grade crossings, and procedures to provide emergency responders with accurate lists of all crew members and passengers aboard trains. The city of Bourbonnais erected a memorial near the site to commemorate those killed in the accident.

Contents

- 1 Accident and investigation
- 2 NTSB recommendations
- 3 Followup
- 4 See also
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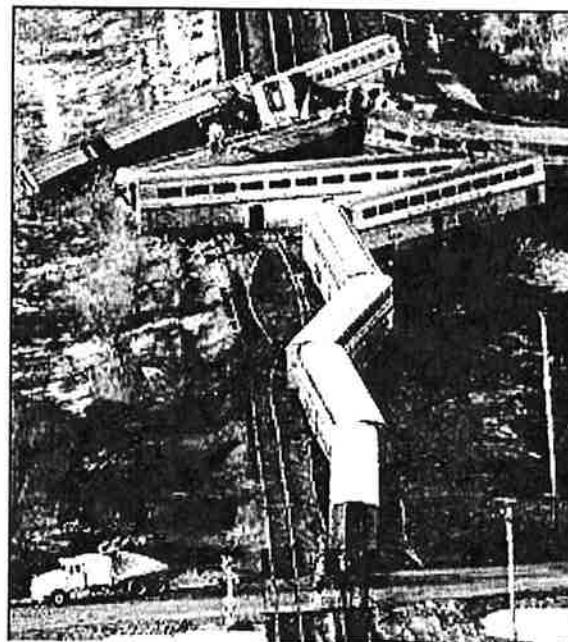
Accident and investigation

The accident occurred at 9:47 pm Central (local) time on March 15, 1999, in Bourbonnais, Illinois, in the United States on the Illinois Central Railroad. The southbound Amtrak train 59, the *City of New Orleans*, hit a semi truck, loaded with steel, that was blocking a grade crossing. The accident resulted in the deaths of at least 11 of the train's passengers, 122 injuries and over US\$14 million in damages.

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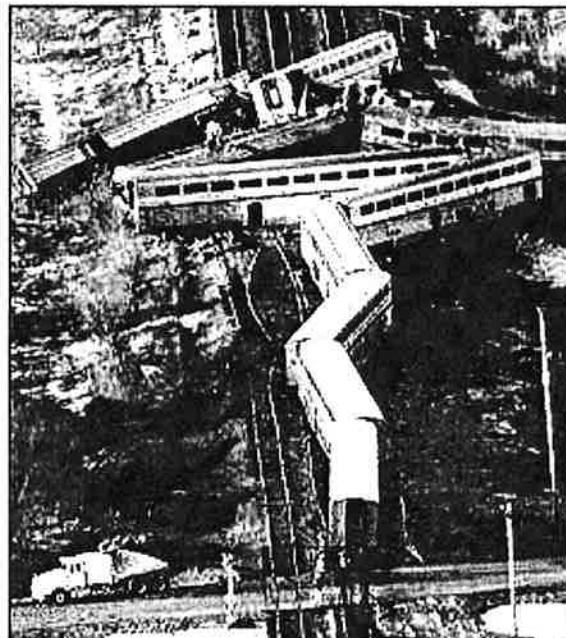
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Comments Prepared by Ted Hart and Mark April 6, 2014

Comments on the Draft 2014 Business Plan (“2014 Plan”)

The comments herein are organized as follows. They are organized first by 2014 Plan Chapter and then by Section within a Chapter. For some comments, wording in the 2014 Plan is first cited in order to put the comment in context.

History of High-Speed Rail in California

Draft 2014 Business Plan (“2014 Plan”) Wording:

“In 1996, the Commission issued a report that concluded that such a project was indeed feasible.”...

Comment:

The Commission went on to say that the high-speed rail project first needed a funding mechanism and that no progress could be made until the voters had approved a funding mechanism nor could an operating firm be selected. The Authority kept the “feasible” part of the Commission’s statement and ignored the recommendation that made it feasible. Eighteen years have passed since the cited statement was made and during all of this time the Authority has never developed a funding mechanism for building a statewide high-speed rail system.

- *The Final 2014 Business Plan must tell the public how much the statewide system would cost, when it will be completed, and how it will be paid for.*

Statutory Requirements for a Business Plan

Draft 2014 Business Plan Wording:

“AB 528 (Lowenthal)....

-(b) (1) The business plan shall include, but need not be limited to, all of the following elements:
- (A) A description of the type of service the authority is developing and the proposed chronology for the construction of the statewide high-speed rail system, and the estimated capital costs for each segment or combination of segments....
-(E) An estimate and description of the total anticipated federal, state, local, and other funds the authority intends to access to fund the construction and operation of the system, and the level of confidence for obtaining each type of funding.(emphasis added)

Comment:

The 2014 Business Plan fails to meet the plain language of AB 528 in that:

It does not provide a chronology for the construction of the statewide high-speed rail system because it fails to provide a chronology for the construction of segments extending Phase 1 to Sacramento and San Diego (Extensions).

It also does not provide estimated capital costs for the Extensions.

Without knowledge of capital costs for the Extensions it has no basis for estimating, describing and providing a confidence for obtaining each type of funding. Aside from the funds required for the Extensions, the 2014 Plan fails to provide a confidence level for obtaining the funds to Build Phase 1 and for building the IOS between Merced and San Fernando.

Extensions, the 2014 Plan fails to provide a confidence level for obtaining the funds to Build Phase 1 and for building the IOS between Merced and San Fernando.

The language cited from AB 528 uses the word "system" only twice. The first use is with the term "statewide high-speed rail system" [185033(b)(1)(A)]. The second usage is regarding the "construction and operation of the system." [185033(b)(1)(A)] The "system" must be taken to mean the "statewide high-speed rail system". Therefore, statute written in AB 528 is telling the Authority and the public that the Draft 2014 Business Plan is deficient.

The Final 2014 Business Plan must explain to the public:

- *when each segment of the statewide system will be completed, including the Extensions;*
- *how much each segment will cost;*
- *where the funds will come from to build each segment; and*
- *the Authority's confidence in obtaining those funds.*

Executive Summary

Draft 2014 Business Plan Wording:

Ridership and Farebox Revenue Forecasts

"They also show lower farebox revenues than projected in the 2012 Business Plan, ranging from 5 percent lower in 2025 to 10 percent lower in 2040."

Operations and Maintenance Cost Estimates

"The updated estimates for the 2022 through 2060 analysis period show an approximately 14 percent increase from the cost estimates shown in the 2012 Business Plan."

Lifecycle Cost Forecasts (Capitalized Maintenance)

"The 2012 estimate projected that, relative to the amount of the original capital investment in the Phase 1 system, approximately 4 percent of the system would require replenishment between 2022 and 2060. The updated 2014 estimate projects that approximately 13 percent of the original capital investment would need to be replenished over that same timeframe, with the majority of that investment occurring after 2050."

Comment:

The changes to Revenue and O & M costs alone result in Net Cash falling by about 30% in the years 2025 to 2060 from the Medium Scenario used in the 2012 Business Plan

Net Cash does not appear to capture Capitalized Maintenance costs which rise from 4% of the investment to 13% of the initial investment. Using \$68 billion as the initial investment, Capitalized Maintenance Costs rise from \$2.7 billion to \$8.8 billion in 2011 dollars. Inclusion of the \$8.8 charge to Net cash flow further erodes Net Cash flow to about 50% of the 2012 Business Plan. Yet the 2014 Plan makes the statement that these revisions, "does not affect the amount of funding needed from

government sources or the overall operational viability of the system.” Clearly with only 50% of the Net Cash flow envisioned in the 2012 Plan, the private investment, which is given in exchange for future cash flow, must go down significantly with the new shortfall being made up by government sources. In fact, the 2012 and 2014 Plans do show Private Investment shrinking from \$13 billion to \$8 billion and this shrinkage must be made up by government sources.

- *The Final 2014 Business Plan must explain to the public how net cash flow can substantially decrease along with Private Investment without affecting “the amount of funding needed from government sources or the overall operational viability of the system.”*

Section 1: Connecting California

BUILDING CALIFORNIA’S FUTURE: WORK IS UNDERWAY

Draft 2014 Business Plan Wording:

“A central principle established in the 2012 Business Plan, and reaffirmed here, is that each phase must have independent value; specifically, it must be a usable segment and all funds required for its completion must be identified before construction begins.”

Comment

This is what the 2014 Plan says, but the 2014 Plan then contradicts itself by showing \$21 billion in “uncommitted funds” necessary to complete the IOS. To make matters worse, the Authority is now commencing construction of the IOS without identifying all funds required for its completion.

The 2014 Plan mentions Cap and Trade as a funding mechanism, but the Authority needs an additional \$2,625 million per year over the 8 year construction schedule and what the Governor has proposed to allocate this year, \$250 million, is less than a 10th of what is need each year.

Moreover, the Authority might need even more to complete the IOS. The Revised 2012 Business Plan (“2012 Plan”) provided high and low cost estimates for different segments of Phase 1, including the IOS. In this and previous business plans the Authority consistently uses the low estimate for “planning purposes”. However, in light of the Authority’s track record of escalating costs, the high estimate seems the more appropriate planning tool. Now in this 2014 Plan the Authority does not even provide the high range of cost estimates.

Previous business plans have referenced the need for low and high cost estimates “depending upon the completion of environmental work and selection of a final alignment.” These low and high cost estimates need to be included until all environmental work is complete and the final alignment of all segments of Phase 1, including the IOS, are completed.

The Final 2014 Business Plan must:

- *continue to provide a range of costs associated with each segment, including the Extensions to Sacramento and San Diego, until final alignments are chosen. As of the writing of the 2014 Plan*

the only final alignment chosen is associated with the 29 miles along the Merced to Fresno section north of Fresno.

- *show the source of funds need for both low and high cost estimates associated with each section, including the Extensions*
- *show Cap and Trade funds, along with their confidence level in obtaining these funds as a specific line item along with other sources needed to fill any funding gaps.*

INVESTING IN CALIFORNIA'S FUTURE

Draft 2014 Business Plan Wording:

"California's major airports are also hitting their capacity limits."

Comment

The Authority has been making this claim since 1999/2000 when the Statewide High-Speed Rail Program EIR/EIS was initiated. In that document the Authority claimed 5 new runways and 90 new gates would be needed by 2020. The year 2020 will come and go exposing this lie and by the Authority's own schedule no one will be riding a high-speed train between San Francisco and Los Angeles in 2020. In the Los Angeles Basin Palmdale Regional Airport remains closed for lack of business; Ontario Airport is struggling to find business; Long Beach Airport is losing business. Between 2000 and 2012 Burbank Airport (now Bob Hope Airport) saw total passenger enplanements drop from 2.4 million per year to 2.0 million per year. And to the general public, the other regional airports appear to be providing good service...at least good enough to not bother flying out of Ontario, Long Beach, Burbank, or clamoring for the reopening of the Palmdale Airport.

- *The Final 2014 Business Plan must refrain from making generally untrue statements about existing infrastructure hitting capacity limits and instead state specifically where problems with capacity do exist as well as where excess capacity resides.*

STARTED WORK ON THE FIRST SEGMENT OF HIGH-SPEED RAIL

Draft 2014 Business Plan Wording:

"We also continue to evaluate the potential for interim service, potentially with Amtrak San Joaquin trains, on the first construction segment with our federal, state and local transportation partners, consistent with the principle that each program phase can stand alone and have independent utility."

Comment

Proposition 1A and AB3034, the law that put Proposition 1A on the ballot, never used the words "independent utility". The Authority is to build "usable segments" of high-speed rail and not start building such a segment until all funds necessary to complete it are secured. It is inconceivable that environmental clearances for track running from Merced to Bakersfield for use by Amtrak could ever be

granted under California's CEQA guidelines. Only as part of a complete statewide system, as proposed in the 2005 Statewide High-Speed Rail Program EIR/EIS, can Project Level EIR/EIS's be approved.

- *The Final 2014 Business Plan must refrain from making spurious arguments about an incomplete IOS having "independent utility". "Independent Utility" is a term used in the Federal Grant Agreements that contemplates using an uncompleted high speed rail "usable segment" for some other less beneficial purpose. The Authority's funding plans, mandated by statute, are meant to assure that this will not be necessary.*

ADVANCE COMPLETION OF ENVIRONMENTAL REVIEWS

Draft 2014 Business Plan Wording:

"Completed and Projected Milestones for the Environmental Review Process by Section

PROJECT SECTION	Forecast Completion per 2014 Plan	Forecast Completion per 2012 Plan
San Francisco to San Jose*	Summer 2017	December 2014
San Jose to Merced	Fall 2016	December 2013
Merced to Fresno	Completed September 2012	June 2012
Fresno to Bakersfield	Spring 2014	December 2012
Bakersfield to Palmdale	Fall 2015	February 2014
Palmdale to Los Angeles	Summer 2015	October 2013
Los Angeles to Anaheim	Spring 2016	December 2014
Los Angeles to San Diego	(Phase 2) TBD	TBD
Merced to Sacramento	(Phase 2) TBD	TBD

NOTE: The Forecast Completion per 2012 Plan was added by the commenter for illustrative purposes.

Comment:

Notice that EVERY Environmental Review has suffered slippage of its scheduled completion date between the issuance of the 2012 and 2014 Plans. Two sections have suffered more than two years of slippage over the past two years. In other words, the estimated date for completion these environmental reviews is farther out in the future now than was the case two years ago. This type of endemic slippage is one reason why Proposition 1A requires that all environmental reviews for a "usable segment", such as the IOS, be complete before accessing bond funds to begin construction. Moreover, AB 528 requires that all Business Plans show scheduled completion dates of environmental reviews for all segments of the statewide high-speed rail system. No "TBD" is allowed.

The Final 2014 Business Plan, in order to show a program incompliance with all applicable statutes, must be revised to:

- *show completion dates for the Environmental Review Process for all Project Sections; and*
- *show that construction on the IOS is not commenced until Environmental Reviews are complete on the Fresno to Bakersfield, Bakersfield to Palmdale, and Palmdale to Los Angeles segments.*

Section 3: Capital and Lifecycle Costs

Comment

The 2012 Plan showed a range of possible costs for each segment. This was because the final alignment of each section had yet to be determined. The Authority spent the bulk of their Plan elaborating on the low end of the cost ranges, their “planning scenario”, but at least they provided a possible range of costs based on the final alignment chosen. Now the Authority in its 2014 Plan only provides costs for the low end of the cost range and does not even allude to high cost alignments. This is an attempt to deceive the public and the press. Not only should the Authority show the possible high end of the cost ranges for each segment, their funding plan should provide funds for the higher level. Of course, this would not be necessary if all environmental reviews were in place making it possible to chart a final alignment before beginning construction.

The 2014 Plan also skimps on showing when funds will be spent on various proposed segments. For instance, the 2012 Plan showed expenditures by year for the 8 year construction of the IOS. The 2014 Plan merely shows the total cost per segment with no mention of when the funds are spent.

A second deception being practiced by the Authority in their 2014 Plan is the dropping of the term “Phase 1 Blended”. What was described as “Phase 1 Blended” in the 2012 Plan is now termed simply “Phase 1”. In addition, the 2012 Plan included a cost provision to actually build at true “Phase 1” that did not share track with commuter lines. Any mention of these additional costs has been dropped from the 2014 Plan.

The Final 2014 Business Plan and all future business plan must:

- *show a high and low range of cost estimates for each section until all environmental review are complete and a final alignment is chosen;*
- *break out capital cost per year for each segment where the final alignment has been chosen;*
- *as a matter of truthfulness, continue to call use of commuter rail in the segment linking San Francisco to Los Angeles “Phase 1 Blended”.*
- *show costs and a completion date for “Phase 1”, a dedicated, non-shared track, true high-speed line linking San Francisco to Los Angeles until such time when the independent Peer Group has determined that “Phase 1 Blended” can meet all of the performance criteria spelled out in existing statute (i.e. 2hr. 40min. travel time, headway criteria, one-seat ride, etc.).*

Section 6: Financial Analysis and Funding

Funding of Capital Costs

Draft 2014 Business Plan Wording:

"Second, a committed, long-term source of funding (Cap and Trade Fees) will allow the Authority to leverage both public and private financing and, depending on the level of commitment, potentially finance the completion of the IOS."

Comment:

The Final 2014 Business Plan must:

- *quantify in terms of funding source (by year) the expression, "leverage both public and private financing"; and*
- *show that Cap and Trade Fees dedicated to high-speed rail will actually fill the funding gap for the IOS and not just at the low end of possible costs, but at the high end as well. Showing the ability to cover high end costs is necessary until a final alignment is chose. The ability of Cap and Trade Fees to "potentially finance" the IOS's funding gap is unacceptable. The term "potentially finance" is not found in the AB3034, the statute behind Proposition 1A – the Safe Reliable High-Speed Passenger Train Bond Act of the 21st Century.*

Section 7: Economic Impact

Draft 2014 Business Plan Wording:

The 2014 Plan quantifies the net present economic benefits of high-speed rail at \$45.6 billion (Exhibit 7.2).

Comment

The majority of the benefit is to be derived from travel "time savings" and most of this benefit is derived from travelers switching from automobile to the faster train. This benefit stands in stark contrast to the environmental benefits of high-speed rail touted in the Statewide High-Speed Rail Program EIR/EIS (2005 Program EIR).

The 2005 Program EIR compared the High-Speed Train Alternative to a "No Project Alternative", which was found infeasible in that it would not meet the transportation needs of Californians in the year 2020, and to a "Modal Alternative" that involved building 3000 lanes of freeways, 90 new airport gates, and 5 new runways to meet Californians' transportation needs in the year 2020. The High-Speed Rail Alternative was approved because it would do less environmental harm than the Modal Alternative. The Authority touted the advantages of high-speed rail over the Modal Alternative for the first decade of the 21st century in terms of cost savings and less impact on the environment. In the Authority's *December 2009 Report to the Legislature* the Authority wrote, "Over the next two decades, California's high-speed train will alleviate the need to spend more than \$100 billion to build:

- 3,000 miles of freeway
- Five airport runways
- 90 departure gates"

This claim made for the years 2010-2030 was identical to made in ten years earlier in the 2005 Program EIR for the years 2000-2020.

The Draft 2012 Business Plan repeated this claim with only slightly different numbers and at a cost of \$171 billion in year-of-expenditure dollars:

- 2,300 new miles of highways
- 115 new airport gates
- 4 new runways

With the year 2020 expected to arrive before any high-speed rail is built, and with no obvious need for additional airports and freeways linking San Francisco and Los Angeles (i.e. the “No Project Alternative” appears to be meeting the travel needs of Californians) the Authority’s more recent business plans, including the Draft 2014 Business Plan, have refocused their argument for the benefits of high-speed rail. Now the benefit to Californian’s will be derived primarily by savings in travel times. Seventy percent of the economic benefits of high-speed rail will supposedly be derived by savings of time and productivity associated with drivers switching from automobiles to train travel.

The May 18, 2012 California High-Speed Rail Peer Group Report takes issue with these savings of time and productivity writing, “there is no single and authoritative evaluation of the (cost-benefit) results. We therefore believe that the results should still be viewed as needing further confirmation and refinement.”

The 2014 Plan states that this recommendation has been completed by the General Accounting Office of the Federal Government and that its recommendations have been incorporated into the cost-benefit analysis. However, the benefits are associated with Phase 1 and that is not what the Authority is seeking to construct, nor does it seek to construct the statewide system approved in the 2005 Program EIR. Instead it seeks to build only the IOS from Merced to San Fernando.

- *The Final 2014 Business Plan should show the benefits associated with the IOS since that is what the Authority seeks to build. Since they lack the demonstrated funds to build even this segment it seems inappropriate to look at benefits of a more extensive system.*

General Comments 1

- *The Authority’s comparison of its high-speed rail project to past infrastructure projects is disingenuous, inappropriate, and insulting to those who built California’s infrastructure. It should stop making these comparisons.*

The Authority’s plans have a history of comparing their high-speed rail project, its funding difficulties and schedule slippage as well as vocal public outrage against their project, to other past infrastructure projects; the California Freeway and Water Projects, the Golden Gate Bridge, and the California University System. Fortunately for the Authority, the men and women who built these projects are mostly dead and cannot speak with outrage against their projects being compared to the debacle of the high speed rail project. For instance, the California Freeway project was a 20 year vision and at the end of 20 years the vision was in place and paid for without taking on government debt. The Interstate

Highway System was funded with a dedicated federal gas tax. The Golden Gate Bridge was fully funded from its inception and completed on time and on budget. The Water and University projects were likewise fully funded and built on schedule.

As a comparison, It has been 21 years since the California Intercity High-Speed Commission was charged with developing a 20 year plan, similar to California's former Freeway Plan and the means to fund the plan. It has been 18 years since the Authority took over the work of the Commission and not one inch of rail has been laid. Moreover, no funding plan to build a usable segment of high-speed rail has ever been developed. Under the Authority's stewardship, the year of completion for high-speed rail linking San Francisco to Los Angles has been pushed out from 2007 to 2029 and even that project has been degraded to one using conventional rail infrastructure at the "bookends". And none of the Authority's plans spell out the cost or timeframe for completing the statewide high-speed rail system that in 1996 was thought possible by the year 2010.

General Comment 2

- *No Project Level High-Speed Rail EIR should be approved until a new Statewide Program Level EIR has been conducted.*

The 2005 Statewide High-Speed Rail Program EIR/EIS (2005 Program EIR) has been made obsolete by the passage of time and by the failures of the Authority to fund the statewide project and to move forward with the project on a schedule anticipated by the 2005 Program EIR. The 2005 Program EIR was in development for nearly 5 years and in places cites as baseline data the travel patterns of Californians as well as the condition of California roads, rail, and airports in the years 1999-2000. The Program EIR will be 17 years old when high-speed rail is currently projected to connect Merced with San Fernando and it will be 25 years old when the Phase 1 Blended is projected to connect San Francisco to Los Angeles. A reasonable estimate is that it would be 40 years old when the originally envisioned statewide system is finally completed. However, the California High Speed Rail Authority has not estimated a completion date for the Statewide HST System since the 2005 Program EIR was certified.

The 2005 Program EIR made key assumptions Regarding High-Speed Rail.

It was to be a Statewide HST System connecting all of the state's major population centers (Bay Area, Sacramento, Los Angeles Basin, and San Diego)

The Statewide HSR System was to be complete and operable by 2020.

The proposed Statewide HSR System was compared to two alternative transportation approaches; the "No Project Alternative" and the "Modal Alternative".

The "No Project Alternative" looked at transportation infrastructure in 1999-2000 and projected it out to the year 2020 if California continued to build transportation infrastructure as currently being planned.

This alternative was found to be “neither a viable nor realistic alternative for meeting California’s future intercity travel demands.”

The “Modal Alternative” considered a set of hypothetical improvements (2,970 additional lane miles – two additional lanes on most intercity highways and as many as four additional lanes in some segments, 90 new airport gates, and 5 new runways statewide all at a cost of \$82 billion). The 2005 Program EIR concluded that the Modal Alternative, while an improvement over the No Project Alternative, “would not be as safe or as reliable as the HST Alternative. Moreover, the Modal Alternative would have greater potential for significant environmental impacts than the HST Alternative”.

The 2005 Program EIR assumed a project timeline – Based on 2000 Business Plan (most recent plan):
3-4 years to complete Project Level EIR’s (Tier II)
7 additional years to complete HST system connection San Francisco to Los Angeles
3 additional years to complete entire Statewide HST System linking to Sacramento and San Diego

Taken at face value, the 2005 Program EIR justified the environmental impacts of the Statewide HSR System because the Statewide HSR System solved a transportation problem with less impact than the Modal Alternative and because the No Project Alternative was not a viable or realistic alternative for meeting the state’s transportation needs. However, numerous and significant events affecting the HSR project have occurred over the 14 since the 2005 Program EIR was initiated.

A funding plan for building the Statewide HST System has never been developed.

The Statewide HST System might be built over the next quarter century in long delayed phases. There is no funding plan for completing even the first of these phases (the IOS linking Merced to San Fernando).

The No Project Alternative has been found by default to adequately meet the needs of Californians.

The Modal Alternative has been found to be unnecessary.

These are all valid reasons why the 2005 Program EIR is no longer an appropriate environmental planning tool. Consider the following. The recently certified Merced to Fresno Project Level EIR and the about to be certified Fresno to Bakersfield Project Level EIR both must reference the 2005 Program EIR and its benefits in order to justify the environmental impacts of these two projects. However, the lead agency (the California High-Speed Rail Authority) has no credible means to ever complete the Statewide HSR System thereby ensuring those benefits . Fortunately, provisions of the California Environmental Quality Act (CEQA) pertaining to Tiered EIR’s seem to now preclude the lead agency from referencing the now obsolete 2005 Program EIR and its benefits. Quoting from CEQA:

Regarding (C), no Project Level EIR was certified within three years of the 2005 Program EIR and some may not be certified within 25 years of the 2005 Program EIR. After all, construction of the Extensions

Regarding (C), no Project Level EIR was certified within three years of the 2005 Program EIR and some may not be certified within 25 years of the 2005 Program EIR. After all, construction of the Extensions to Sacramento and San Diego are not likely to begin until after completion of Phase 1 in 2029 (or later) and Project Level EIR's certified years or decades ahead of commencing construction would certainly need to be redone.

Regarding (E) the lead agency can hardly continue claiming that the No Project Alternative and Modal Alternative remain "infeasible" even though California appears to be getting along quite well with the No Project Alternative. In fact, the 2014 Plan seems to tacitly admit that the "No Project Alternative" is in fact feasible by claiming that the economic benefits of HSR derive chiefly from "travel time" and "travel efficiency" savings.

Therefore, Project Level EIRs cannot justify their environmental impacts (damage) by referencing the environmental benefits of the Statewide HST System alluded to in the 2005 Program EIR. Without making this reference it is inconceivable that Project Level EIR's showing serious environmental impacts in the Central Valley can be properly certified.

Mark R. Powell and Ted Hart

April 6, 2014